

# FEDERAL AGENCIES

FA1 – United States House of Representatives – Tom Reed


20140324-0048 FERC PDF (Unofficial) 03/21/2014  
03/21/2014 10:55AM 6076547568 FAX PAGE 01/04

ASSOCIATED  
PUBLIC FILE

CP13-499  
CP13-502

DATE: 3/21/14

**HONORABLE TOM REED**  
House of Representatives  
New York 23<sup>rd</sup> Congressional District  
Fax Cover Sheet  
89 West Market Street  
Corning, NY 14830



TO: Mr. Thomas Hudson FROM: Alison Hunt  
PAGES (INCLUDING COVER SHEET): 4  
FAX: 202-208-2100 FAX: (607)-654-7568  
PHONE: PHONE: (607)-654-7566  
CC:  
RE: Constituent Concern re: Docket Nos. CP13-499 + CP13-502

**COMMENTS:**  
Please see attached and advise. Thank you.

RECEIVED  
2014 MAR 21 P 12:38  
OFFICE OF  
EXTERNAL AFFAIRS

☐ Urgent  
☒ Please review  
☒ Please comment  
☐ For your records

2014-00034

S-30

Federal Agency Comments

# FEDERAL AGENCIES

## FA1 – United States House of Representatives – Tom Reed (cont'd)

	<p>20140324-0048 FERC PDF (Unofficial) 03/21/2014          03/21/2014 10:55AM 6076547568 FAX          PAGE 02/84</p>
	<p>March 19, 2014</p> <p>George Meszaros, Jr.          146 Beckhorn Hollow Road          Van Etten, New York 14889          607-589-6537</p> <p>MAR 20 2014</p> <p>Senator Thomas F. O'Mara          333 East Water Street          Suite 301          Elmira, New York 14901</p> <p>Dear Senator O'Mara:</p>
FAI-1	<p>On February 12, 2014, The Federal Energy Regulatory Commission (FERC) issued their Draft Environmental Impact Statement (DEIS) for the Constitution Pipeline (CP) and Wright Interconnect Projects (WIP). On March 4, 2014 The United States Army Corps Of Engineers (USACE) issued their announcement for Public hearings and request for public comment. Re: Docket Nos. CP13-499 and CP13-502 NAN-2012-00449-UBR</p> <p>The DEIS from FERC is 945 pages and The Public Notice from (USACE) is 722 pages. These two documents contain an enormous amount of information to absorb and to make substantive comments by April 7, 2014.</p>
FAI-2	<p>I ask you for your help and assistance in this matter because I am a resident landowner in Van Etten, New York and I am also a seasonal resident landowner in Davenport, New York. My property in Davenport (NY-DE-199,000) is on what CP calls the preferred route. This property has been in my family since the early 1960's. I have enclosed a map of where the pipeline is to be located on our property. As you can see, my residence and property will be severely and forever impacted if the Pipeline is located where noted. This is not to mention that my access and use of property during construction would be terminated for a fence would be installed where the road meets my property. Other issues are a rock wall, a possible historic house foundation, driveway, future water well site and all the trees that would be removed.</p>
FAI-3	<p>FERC knowingly issued this DEIS as being incomplete and vague. FERC asked CP to respond to comments made by NYSDEC and USACE. Their comments were inadequate and at times were a complete failure to even acknowledge many agency comments.</p> <p>In this DEIS, FERC has requested CP, file with The Secretary, prior to the end of the comment period, all additional information requested. How can I or the Public make comments on information that is not in the DEIS?</p> <p>I ask for your assistance in getting a six-month extension on the comment period on this DEIS.</p> <p>Thank you, <i>Greg Meszaros</i></p>

FA1-1

The commentator's request to extend the comment period is noted. The FERC staff reviewed, considered, and addressed all comments received during the comment period. The FERC continued to accept comments on the draft EIS and any other materials placed into the record past the end date of the comment period and up to the point of publication of the final EIS. All timeframes for review have been in accordance with the FERC regulations, NEPA, and CEQ guidance.

While some information was still pending at the time of issuance of the draft EIS, the lack of this final information does not deprive the public of a meaningful opportunity to comment on a substantial adverse environmental effect of the projects or a feasible way to mitigate or avoid such effect. The EIS includes sufficient detail to enable the reader to understand and consider the issues raised by the proposed projects and addresses a reasonable range of alternatives. The final EIS has been updated with new information where it is available.

Chairman LaFleur responded to Tom Reed's inquiry on April 16, 2014.

FA1-2

Section 3.4.3 of the EIS has been updated with additional analyses regarding this parcel. Parcel NY-DE-199,000 was included in condition 12 of the draft EIS requiring Constitution to further assess minor route deviations or other measures intended to avoid, minimize, or mitigate landowner concerns. However, Constitution indicated that it could not perform the assessment since it did not have survey access. Constitution also indicated that it could not locate structures on the parcel, even though it depicts two structures on its alignment sheets. Constitution committed to developing a site-specific residential construction plan if workspaces would be within 25 feet of a house.

# FEDERAL AGENCIES

## FA1 – United States House of Representatives – Tom Reed (cont’d)

FA1-2  
(cont’d)

We reviewed the pipeline route on parcel NY-DE-199.000 overlaid on 2013 aerial imagery that we independently obtained. While we could not confirm the location of structures on the parcel using the 2013 aerial imagery, we do note that two structures were identified on Constitution’s alignment sheet No. 88 for the parcel. As described in section 3.4.3 of the final EIS we are recommending, pending landowner concurrence and confirmation of technical feasibility, adoption of a minor route variation that would place the work area and centerline further from the structures and it would also better align the route along the northern property boundary. This would reduce impacts on the property overall during both construction and over the long-term during operation. According to our assessment of “desktop” data sources such as agency databases, aerial photography, maps, literature, and other available sources, the minor route variation would not affect new waterbodies, wetlands, or landowners; it would cross favorable topography; and would reduce the net number of points of inflection (PI) by one. Constitution would still be required to develop a site-specific residential construction plan if any associated workspaces would be within 25 feet of a house.

FA1-3

See the response to comment FA1-1.

**FEDERAL AGENCIES**

**FA1 – United States House of Representatives – Tom Reed (cont'd)**

S-33

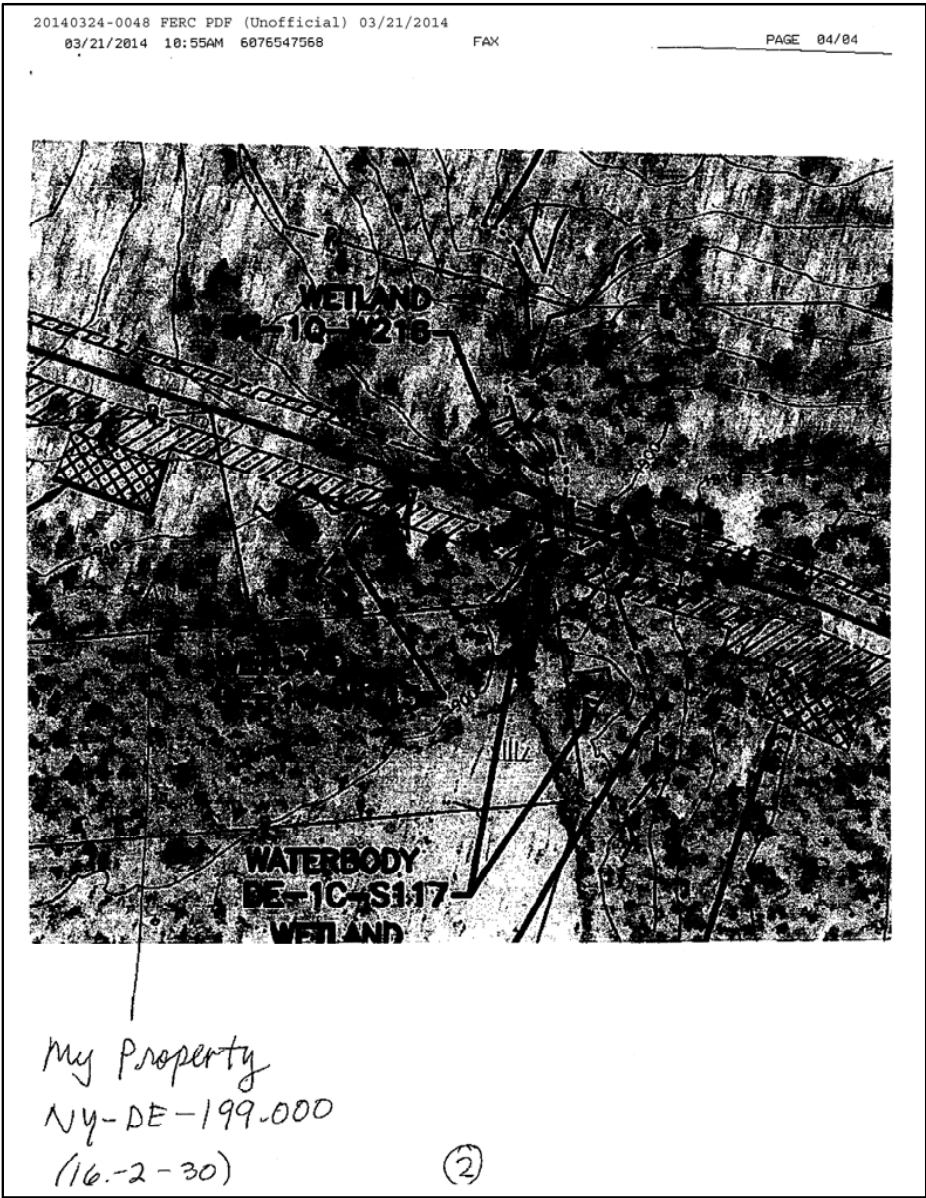




**FEDERAL AGENCIES**

**FA1 – United States House of Representatives – Tom Reed (cont'd)**

S-34



# FEDERAL AGENCIES

## FA2 – United States Department of Interior



### United States Department of the Interior

OFFICE OF THE SECRETARY  
Office of Environmental Policy and Compliance  
15 State Street – Suite 400  
Boston, Massachusetts 02109-3572



March 25, 2014

9043.1  
ER 14/0088

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**RE: COMMENTS**  
**Draft Environmental Impact Statement**  
**Constitution Pipeline and Wright Interconnect Projects**  
**FERC Nos. CP13-499-000 and CP-502-000**  
**Susquehanna County, PA, and Broome, Chenango, Otsego, Delaware, and**  
**Schoharie Counties, NY**

Dear Ms. Bose:

FA2-1 The U.S. Department of the Interior (Department), including the U.S. Fish and Wildlife Service, National Park Service, U.S. Geological Survey, and the Bureau of Indian Affairs, requests a 30 day extension of the comment period for the Draft Environmental Impact Statement (DEIS) for the Constitution Pipeline and Wright Interconnect Projects, New York and Pennsylvania. The additional time needed to prepare comments is due to several factors, including but not limited to the size and complexity of the proposed project and its DEIS.

Thank you for attention to this request. Please contact me at (617) 223-8565 if I can be of assistance.

Sincerely,

Andrew L. Raddant  
Regional Environmental Officer

FA2-1 See the response to comment FA1-1.

# FEDERAL AGENCIES

## FA3 – United States Environmental Protection Agency

20140325-0027 FERC PDF (Unofficial) 03/25/2014



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1886

MAR 19 2014

ORIGINAL

FILED  
SECRETARY OF THE  
COMMISSION  
2014 MAR 25 A 9 25  
FEDERAL ENERGY  
REGULATORY COMMISSION

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

Re: Constitution Pipeline and Wright Interconnect Projects  
Docket Nos. CP13-499-000 and CP13-502-000

Dear Secretary Bose:

FA3-1 The Environmental Protection Agency is respectfully requesting an extension to the comment period for the draft environmental impact statement for the Constitution Pipeline and Wright Interconnect Projects. Constitution Pipeline Company, LLC and Iroquois Gas Transmission System, L.P. are requesting authorization to construct and operate interstate natural gas pipeline facilities, including over 120 miles of new pipe, in Susquehanna County, Pennsylvania and Broome, Chenango, Otsego, Delaware, and Schoharie Counties, New York to deliver up to 650,000 dekatherms per day of natural gas supply to markets in New York and New England.

Due to a paucity of key review staff at this immediate time, combined with the large geographic scope of the project, intricate nature of its elements, and copious documentation, EPA is requesting an extension of at least 15 days and up to 30 days to provide comments on the draft EIS.

Thank you for your consideration of this request. If you have any questions, please call me at (212) 637-3738.

Sincerely yours,

Grace Musumeci, Chief  
Environmental Review Section

cc: Kevin Bowman, FERC

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 50% Postconsumer content)

FA3-1

See the response to comment FA1-1.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior



### United States Department of the Interior

OFFICE OF THE SECRETARY  
Office of Environmental Policy and Compliance  
15 State Street – Suite 400  
Boston, Massachusetts 02109-3572



April 7, 2014

9043.1  
ER 14/0088

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**RE: COMMENTS**  
**Draft Environmental Impact Statement**  
**Constitution Pipeline and Wright Interconnect Projects**  
**FERC No. CP13-499-000, CP-502-000, Pennsylvania and New York**

Dear Ms. Bose:

FA4-1

The U.S. Department of the Interior (Department) has reviewed the Draft Environmental Impact Statement for the Constitution Pipeline (Project) and Wright Interconnect Projects FERC No. CP13-499-000, CP-502-000; Susquehanna County, Pennsylvania, and Broome, Chenango, Otsego, Delaware, and Schoharie Counties, New York. The applicant, Constitution Pipeline Company, LLC, proposes to construct a new 30-inch natural gas pipeline, approximately 124.4 miles in length, from Susquehanna County, Pennsylvania, to the Wright Compressor Station located along the existing Iroquois Gas Pipeline in Schoharie County, New York. Upgrades will be made to the Wright Station to increase gas compression. The purpose of the projects is to transport natural gas obtained from Marcellus shale reserves in Pennsylvania to markets in New York and beyond.

For reasons detailed herein, we believe the DEIS is deficient in many respects, and should be revised and recirculated for comment. In addition, some sections may benefit from incorporating provisions for well-defined supplements.

Comments by the Department are submitted pursuant to, and in accordance with, provisions of the National Environmental Policy Act (42 U.S.C. 4321 et seq.), Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended; 16 U.S.C. 668-668d), and the Migratory Bird Treaty Act (MBTA) (40 Stat. 755; 16 U.S.C. 703-712). Additional comments on this project may be provided under the Fish and Wildlife Coordination Act (48 Stat. 401, as

FA4-1

See the response to comment FA1-1.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

S-38

	2
FA4-1 cont'd	amended; 16 U.S.C. 661 et seq.) or other legislation, as applicable. The Department's comments represent contributions from the U.S. Fish and Wildlife Service (FWS) and the U.S. Geological Survey (USGS).
FA4-2	<p>U.S. FISH AND WILDLIFE SERVICE</p> <p><b><u>Section 2.0 Project Description</u></b></p> <p>The proposed project involves the construction of approximately 124 miles of new pipeline, two new meter and regulation stations, a new compressor station, two tie-ins, and 11 mainline valves. The project purpose states that the pipeline would deliver up to 650,000 dekatherms of gas per day (Dth/d) on Page 1-2; however, on Page 2-32 of the DEIS, it is indicated that the capacity is actually 850,000 (Dth/d) with increased operating pressure. It is not clear why the project sponsor is not requesting authorization for the maximum capacity at this time. If this request will be made in the future, the cumulative impact of this action should be considered by FERC in the current DEIS.</p>
FA4-3	It is important to note that due to landowner concerns about the project, Constitution's access to 24 percent (approximately 30 miles) of the project area has been denied. Therefore, the impacts reported in the DEIS may be higher than reported for most resources. This lack of information that should be addressed in a revised DEIS, and may necessitate supplements as this information available.
FA4-4	Temporary construction fencing is described on Page 2-12 and indicates that Constitution may use orange safety fencing to protect wetlands of high value, but there is no description of these areas in the document. We encourage Constitution to work with the U.S. Army Corps of Engineers (Corps) to protect all wetlands within and adjacent to the workspace. Temporary fencing should be placed around wetlands near construction areas so that inadvertent encroachment does not occur. The fencing should also have signs indicating the wetlands are "off limits" areas.
FA4-5	Constitution proposes to remove trees, brush, and other vegetation (known as slash) from the pipeline right-of-way and then sell it for pulp or be chipped in place. In forested areas, and where compatible with the landowner's wishes, it is suggested the slash be piled along the edge of the right-of-way to serve as habitat. The amount of material left behind could be determined by the property owner. Leaving this material in place can serve several functions: in addition to providing habitat for small mammals, reptiles, and amphibians, as well as birds, it can reduce overland flow and limit erosion, and it can also prevent deer browsing and allow seedlings to become established as they grow up through the slash. Transport also raises the potential for distribution of invasive species. See comments further below on the Invasive Species Management Plan.
FA4-6	A description of construction techniques proposed for stream crossings is provided on Page 2-20. For most crossings, a dry crossing is proposed to reduce impacts to stream habitat and water quality. However, Constitution proposes to use wet crossings (open-cut trenching) where dry options are determined to be infeasible. This method of construction can impact streambed and bank stability, deposition of sediment in downstream areas, and detrimental changes in water quality (such as increased turbidity). The DEIS does not describe circumstances where the use of in-stream construction is justified. Further, areas have not been identified where this

FA4-2

Constitution's proposed action is for the transport of 650,000 Dth/day of natural gas. There are no known plans to increase the delivery volumes nor is that action reasonably foreseeable. If Constitution did propose to increase the delivery volume in the future, then addition environmental and regulatory review by the FERC and all other applicable agencies would be required. However, Constitution indicated that this additional capacity could be met with additional compression at either a new or existing compressor station. Because there is no proposal, a meaningful air quality analysis cannot be completed. We have, however revised section 4.13 of the EIS to include some of the additional cumulative impacts associated with the production of this capacity.

FA4-3

In areas where field survey access was denied by landowners, data were obtained from "desktop" sources as described in section 1.2 of the EIS. This information provides a reasonable basis for an assessment of resources and potential impacts. If the pipeline project is certificated by the Commission, it conveys the right of eminent domain, including access for field surveys. Constitution must complete all remaining field surveys for agency permitting prior to FERC consideration of authorizing construction. Typically, 100 percent complete survey access is not obtained prior to certification for linear projects of this magnitude.

FA4-4

Constitution indicated in its ECPs that it would clearly mark wetland and associated buffer boundaries with signs and/or highly visible flagging until construction-related ground disturbing activities are complete, and that Constitution would not use bulldozers to clear wetlands. These actions would help prevent inadvertent damage to wetlands adjacent to the construction zone. High value or high quality wetlands were discussed in section 4.4.1.9 of the draft EIS and specific wetlands were identified in appendix L. Constitution is seeking authorization from the COE - Department of the Army Nationwide Permit Number 12, which has participated as a cooperating agency for the preparation of this EIS. Constitution must comply with all applicable COE-issued wetland permit requirements.

FA4-5

Constitution stated that it does not intend to use stacks of timber or slash as enhancements for wildlife habitat unless specifically requested by the landowner or land managing agency. As we view stacked timber as construction debris, we concur with Constitution's proposal. As stated in section 2.3.1 of the EIS "The transportation of any wood materials would comply with the NYSDEC's regulations intended to prevent the spread of invasive species."

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

S-39

	2
FA4-1 cont'd	amended; 16 U.S.C. 661 et seq.) or other legislation, as applicable. The Department's comments represent contributions from the U.S. Fish and Wildlife Service (FWS) and the U.S. Geological Survey (USGS).
FA4-2	<p>U.S. FISH AND WILDLIFE SERVICE</p> <p><b><u>Section 2.0 Project Description</u></b></p> <p>The proposed project involves the construction of approximately 124 miles of new pipeline, two new meter and regulation stations, a new compressor station, two tie-ins, and 11 mainline valves. The project purpose states that the pipeline would deliver up to 650,000 dekatherms of gas per day (Dth/d) on Page 1-2; however, on Page 2-32 of the DEIS, it is indicated that the capacity is actually 850,000 (Dth/d) with increased operating pressure. It is not clear why the project sponsor is not requesting authorization for the maximum capacity at this time. If this request will be made in the future, the cumulative impact of this action should be considered by FERC in the current DEIS.</p>
FA4-3	It is important to note that due to landowner concerns about the project, Constitution's access to 24 percent (approximately 30 miles) of the project area has been denied. Therefore, the impacts reported in the DEIS may be higher than reported for most resources. This lack of information that should be addressed in a revised DEIS, and may necessitate supplements as this information available.
FA4-4	Temporary construction fencing is described on Page 2-12 and indicates that Constitution may use orange safety fencing to protect wetlands of high value, but there is no description of these areas in the document. We encourage Constitution to work with the U.S. Army Corps of Engineers (Corps) to protect all wetlands within and adjacent to the workspace. Temporary fencing should be placed around wetlands near construction areas so that inadvertent encroachment does not occur. The fencing should also have signs indicating the wetlands are "off limits" areas.
FA4-5	Constitution proposes to remove trees, brush, and other vegetation (known as slash) from the pipeline right-of-way and then sell it for pulp or be chipped in place. In forested areas, and where compatible with the landowner's wishes, it is suggested the slash be piled along the edge of the right-of-way to serve as habitat. The amount of material left behind could be determined by the property owner. Leaving this material in place can serve several functions: in addition to providing habitat for small mammals, reptiles, and amphibians, as well as birds, it can reduce overland flow and limit erosion, and it can also prevent deer browsing and allow seedlings to become established as they grow up through the slash. Transport also raises the potential for distribution of invasive species. See comments further below on the Invasive Species Management Plan.
FA4-6	A description of construction techniques proposed for stream crossings is provided on Page 2-20. For most crossings, a dry crossing is proposed to reduce impacts to stream habitat and water quality. However, Constitution proposes to use wet crossings (open-cut trenching) where dry options are determined to be infeasible. This method of construction can impact streambed and bank stability, deposition of sediment in downstream areas, and detrimental changes in water quality (such as increased turbidity). The DEIS does not describe circumstances where the use of in-stream construction is justified. Further, areas have not been identified where this

FA4-2

Constitution's proposed action is for the transport of 650,000 Dth/day of natural gas. There are no known plans to increase the delivery volumes nor is that action reasonably foreseeable. If Constitution did propose to increase the delivery volume in the future, then addition environmental and regulatory review by the FERC and all other applicable agencies would be required. However, Constitution indicated that this additional capacity could be met with additional compression at either a new or existing compressor station. Because there is no proposal, a meaningful air quality analysis cannot be completed. We have, however revised section 4.13 of the EIS to include some of the additional cumulative impacts associated with the production of this capacity.

FA4-3

In areas where field survey access was denied by landowners, data were obtained from "desktop" sources as described in section 1.2 of the EIS. While this information is provisional, it does provide a basis for an assessment of resources and potential impacts. If the pipeline project is certificated by the Commission, it conveys the right of eminent domain, including access for field surveys. Constitution must complete all remaining field surveys for agency permitting prior to FERC consideration of authorizing construction. Typically, 100 percent complete survey access is not obtained prior to certification for linear projects of this magnitude.

FA4-4

Constitution indicated in its ECPs that it would clearly mark wetland and associated buffer boundaries with signs and/or highly visible flagging until construction-related ground disturbing activities are complete, and that Constitution would not use bulldozers to clear wetlands. These actions would help prevent inadvertent damage to wetlands adjacent to the construction zone. High value or high quality wetlands were discussed in section 4.4.1.9 of the draft EIS and specific wetlands were identified in appendix L. Constitution is seeking authorization from the COE - Department of the Army Nationwide Permit Number 12, which has participated as a cooperating agency for the preparation of this EIS. Constitution must comply with all applicable COE-issued wetland permit requirements.

FA4-5

Constitution stated that it does not intend to use stacks of timber or slash as enhancements for wildlife habitat unless specifically requested by the landowner or land managing agency. As we view stacked timber as construction debris, we concur with Constitution's proposal. As stated in section 2.3.1 of the EIS "The transportation of any wood materials would comply with the NYSDEC's regulations intended to prevent the spread of invasive species."

**FEDERAL AGENCIES**

**FA4 – United States Department of Interior (cont’d)**

FA4-6                      Constitution proposes to use a dry crossing or trenchless method on all waterbodies. This section was intended to disclose that during construction unusual circumstances may arise that result in the change of a crossing method. Any locations or circumstances where this could occur would be identified during construction and cannot be predicted at this time. In the event that Constitution proposes to modify its crossing methods, it would be required to seek the FERC’s (and any other permitting agency’s) approval, including a site-specific justification and explanation regarding its proposed methods and impact avoidance, minimization, or mitigation measures. Section 2.5.4 of the EIS describes our post-approval variance process.



# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

S-41

	3
FA4-6 cont'd	technique would be used. We recommend FERC require Constitution to justify each use of this technique and provide mitigation where it cannot be avoided.
FA4-7	We agree with Constitution's proposal to use temporary bridges over waterbodies to facilitate access. The DEIS, however, does not indicate if these structures will be used at all crossings or just those over a certain size. This should be clarified. In addition, the bridges will be designed to accommodate normal to high flows, but no specifics are given on what storm events these crossings will be designed to withstand. More information should be provided by Constitution in the revised DEIS.
FA4-8	For sensitive wetlands, waterbodies, and some roads, Constitution would implement horizontal directional drilling (HDD) underneath these areas to avoid surface impacts. However, the required geotechnical investigations are not finished for some locations and should be included in the revised DEIS. In general, we support the use of HDD where conditions allow, but the technique can lead to impacts in certain geological conditions. Consequently, the FERC should not authorize this technique for any area without sufficient geotechnical information to support the use of HDD. Further, reference is made to the development of a Draft HDD Contingency Plan, but it is not included with the DEIS or an appendix. This plan should be provided as an appendix for review and comment. Finally, we do not support the clearing of trees within wetlands in order to place HDD monitoring equipment, and agree with the FERC that only hand clearing in a 3 foot wide area should be employed.
FA4-9	Details of preconstruction inspections for invasive species were not clearly identified in Section 2, but should be required to identify problem areas (surveys are not completed). The DEIS states that abundant species in New York include reed canary grass, multiflora rose, and tartarian honeysuckle, but no commitment is made to remove these species or prevent their spread to new areas. Removal and proper disposal of invasive plants prior to construction could limit the spread of seeds, roots, and other plant parts. Text in Section 4 of the DEIS indicates that an Invasive Species Management Plan was prepared, but it is not included as an Appendix. This information should be included for review.
FA4-10	Constitution proposes to put the pipeline into service in March 2015. Given the lack of data and analysis in the DEIS for approximately 30 miles of the project's length where access has been denied, we have reservations about that timeframe. The FERC should require outstanding information and data be included in the revised DEIS for full review prior to project approval and construction. Having sufficient information is particularly important for other agencies that require the data for analysis and permitting decisions.
FA4-11	Although the document indicates on Page 2-30 that the FERC would eventually review unsurveyed parcels, it will not do so until after the project has already been approved and certified. It would be preferable for the entire project area to be surveyed and the information included in the DEIS for review by the public and resource agencies prior to project approval.
FA4-12	Construction monitoring would be the responsibility of a third-party contractor. There is a long list of action items on Page 2-29, yet, there are few details in this section on how adequate construction monitoring will take place. More detailed information should be provided on monitoring in the DEIS.
FA4-13	Post-construction monitoring would be implemented to evaluate restoration activities. Constitution indicates that monitoring for invasive species would be done annually for 3 years.

FA4-7

Constitution would implement our Wetland and Waterbody Construction and Mitigation Procedures (Procedures), which require that equipment bridges be installed at *all* waterbodies and that Constitution "design and maintain each equipment bridge to withstand and pass the highest flow expected to occur while the bridge is in place." Installation and maintenance of equipment bridges would be routinely inspected by the FERC monitors during construction.

FA4-8

See the response to comment FA1-1 regarding issuance of the draft EIS while some information was still pending. Constitution would perform geotechnical evaluations in the location of all proposed horizontal directional drill (HDD) sites prior to their construction in order to confirm feasibility. Constitution's HDD Contingency Plan has been available for public comment as it was filed as part of its Application and can be accessed at [http://elibrary.ferc.gov/0/idmws/file\\_list.asp?document\\_id=14160901](http://elibrary.ferc.gov/0/idmws/file_list.asp?document_id=14160901). The USDOL's support for HDD where conditions allow and support for prohibition of clearing at HDD sites is noted.

FA4-9

Section 4.5.4 has been updated to provide additional details from Constitution's state-specific Invasive Species Management Plans. Specifically, Constitution would inspect vehicles, equipment, and materials before being brought to the right-of-way, or moved to a different location where Constitution would power-wash the equipment with clean water without the use of detergent or chemicals. Wash water would not be discharged within 100 feet of a waterbody, wetland, or stormwater conveyance. Constitution would use elevated wash rack stations on equipment constructing in any wetland identified as containing invasive species; this would be done prior to entering an area free of invasive species. Constitution would collect and dispose of soil and plant material collected at washing stations at state approved off-site facilities, in accordance with applicable regulations. If site conditions preclude the use of water at washing stations, then brushes or compressed air may be used. The complete invasive species management plan can be accessed in the administrative record as part of Constitution's November 2013 supplemental filing at [http://elibrary.ferc.gov/0/idmws/file\\_list.asp?document\\_id=14160901](http://elibrary.ferc.gov/0/idmws/file_list.asp?document_id=14160901).



# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont’d)

- FA4-10      The USDOl’s comments regarding the projects’ schedule are noted. As part of their applications, Constitution and Iroquois originally proposed an in-service date of March 2015. However, we acknowledge this date is no longer feasible. Constitution has proposed to start construction in February of 2015 and continue through the end of 2015. See the response to FA4-3 regarding pending data and permitting.
- FA4-11      It is not possible for surveys to be completed on parcels where survey access has been denied by individual landowners, unless the Commission authorizes the project. See the response to FA4-3 regarding pending data and permitting.
- FA4-12      As described in section 2.5.2 of the EIS, Constitution would employ at least one EI per spread to implement best management practices and other requirements. As described in section 2.5.3 of the EIS, third-party compliance monitors under the direction of the FERC would conduct daily construction monitoring of these actions. Full-time FERC staff would also complete routine inspections in addition to the third-party monitors. Both the EIs and the third-party compliance monitors would complete inspections on a daily basis and would have stop-work authority.
- FA4-13      Our Plan requires the applicant to conduct quarterly reporting for the first two years or until restoration is complete. Additionally, Constitution proposed that post-construction monitoring occur in the growing season in July, with herbicide application and/or mechanical removal occurring immediately in July (as needed) with follow-up control performed in September, which is consistent with the USDOl’s recommendation.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

S-43

	4
FA4-13 cont'd	We recommend this monitoring be done during the growing season between the months of June and August. Problem areas should be dealt with immediately.
FA4-14	On Page 2-33, it is stated that the proposed pipeline could carry as much as 23 percent more gas than what is being authorized by the FERC. A reasonable explanation as to why Constitution is not requesting the use of full capacity of its infrastructure should be provided in this section. As mentioned above, the FERC should consider the maximum capacity of the project in this DEIS.
FA4-15	<b>Section 3.0 Alternatives</b>  A description of the No-Action Alternative is provided and indicates that if the project were not built it would result in no new natural gas supply for New York and New England markets. This statement is only partially true. It would mean that <u>this</u> project would not supply that natural gas, but it does not preclude another project from doing so. Additionally, it should be noted that the No-Action Alternative has the least amount of impact to natural resources.
FA4-16	Early in the project review, many individuals provided input on the proposed project location and expressed support for developing an alternative that would roughly follow the Interstate 88 highway corridor (Alternative M). However, the proposed location of the project is, for the most part, not adjacent to the highway but crosses greenfields as stated on Page 2-1. The FWS, in a letter dated October 5, 2012, recommended the FERC consider the benefits of co-locating the project with existing infrastructure, such as highway rights-of-way and utility corridors. This collocation would reduce direct and indirect impacts to wildlife, habitat fragmentation, and human disturbance in natural areas. Constitution has argued that it is not feasible due to steep slopes even though several sections of the proposed alignment are currently planned on steep slopes.
FA4-17	In describing the project impacts of the preferred alternative, the DEIS (Page 3-9) indicates that the disturbance will be largely short term and temporary. We disagree with that assessment for resources such as wetlands and interior forest habitat and the myriad of species that depend upon them. Lasting impacts are expected to unfragmented forest adjacent to the pipeline for many areas (see additional discussion below).
FA4-18	In considering existing infrastructure, we are aware of several proposed and existing gas pipeline projects that deliver natural gas from Pennsylvania to New York (Tennessee Gas 300, Stage Coach to Millennium, Texas Eastern). The DEIS indicates that the Tennessee Gas 300 pipeline proceeds in an east-west direction (which is in the direction of New York City and one of Constitution's markets) but not toward the Wright Compressor Station. The Millennium pipeline also follows an east-west route before turning toward New York City. A co-location of the Constitution pipeline with one of these other projects would reduce resource impacts. It is not explained why a new pipeline could not be collocated with the Tennessee Gas 300 pipeline or the Millennium Pipeline. The text does indicate that these pipelines are not in the direction of the Wright Compressor Station. We believe the alternative selection criteria should not mandate a link to this compressor station, especially if other feasible routes are available to get the gas to markets. For example, an option not considered in the DEIS would be to co-locate a new pipeline with either the 300 pipeline or the Millennium pipeline and make a connection to the Algonquin pipeline where they intersect. In combination, these pipelines would serve both the New York City and New England markets. On Page 3-19, it is stated that a new pipeline would not be feasible due to the highly developed nature of the area. However, we note that portions of

FA4-14

Constitution's proposed project capacity is based on customer demand. See the response to comment FA4-2.

FA4-15

Section 3.1 of the EIS stated that if the proposed projects were not built, then the end users would have to seek other means of natural gas supply (including other natural gas infrastructure projects), or other fuel sources to meet the energy needs, or curtail energy use. It also stated that the short-term and long-term environmental impacts would not occur if the proposed projects were not built.

FA4-16

A detailed evaluation of alternative M, including sub-alternatives for M segments, is included in section 3.4.1.2 of the EIS. We also evaluated another major route alternative in section 3.4.1.1 of the EIS, alternative K, that contained significant collocation with existing corridors. We evaluated and compared many resource topics in addition to steep and side slopes in the analysis of numerous alternative routes. The alternatives section also discusses pipeline routing within the I-88 median and controlled access area.

FA4-17

Permanent and long-term impacts on wetlands and forest vegetation are disclosed in sections 4.4 and 4.5 of the EIS, respectively. As noted in table 4.5.5-1, of the vegetated areas that would be disturbed during construction only about 40 percent would be permanently affected. As described for wetlands in relation to the COE permitting in section 4.4.5 and as we recommended in section 4.5.3 for upland forest, the COE would require mitigation for unavoidable impacts.

**FEDERAL AGENCIES**

**FA4 – United States Department of Interior (cont’d)**

FA4-18                      We evaluated both system alternatives and major collocated alternatives in sections 3.2 and 3.3 of the EIS, including Tennessee Gas Pipeline (TGP) 300, Millennium, and Transco Leidy, which proceed towards New York City. We also considered the possibility of transporting natural gas from one of the systems mentioned above from New York City to New England (e.g., via Algonquin); see section 3.2.3.3 of the EIS. We conclude these alternatives were not feasible due to system constraints and the high level of development in the New York City and surrounding area. We note that the New Jersey-New York pipeline involved a relatively short pipeline segment within New York City, not crossing the entirety of the city, as would be required to meet the objectives of this project. We also note that we are aware of a possible project being considered by Iroquois, the South-to-North (SoNo) project which has not yet been filed with the Commission. If Iroquois pursues the SoNo project and it is approved, then the delivery of natural gas to New York City via the Iroquois pipeline system could be precluded.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

5-45

	5
FA4-18 cont'd	the Tennessee Gas 300 and Spectra New Jersey-New York pipelines were recently constructed in the New York City area.
FA4-19	Both the EmKey and Bluestone pipelines are, or would be, located near the natural gas source in Susquehanna County, Pennsylvania, but the DEIS indicates that due to meandering routes these pipelines could not be used to transport gas or as a location for a new pipeline (although the Constitution project would co-locate with Bluestone for 1,900 linear feet). The revised DEIS should provide a more thorough explanation as to why this collocation is not feasible.
FA4-20	<p><b>Major Alternative Routes</b></p> <p>Alternative K was reviewed as a southern, more direct route between the project endpoints. It would be 6 miles shorter than the proposed project and mostly travel along existing rights-of-way. Significantly, the Alternative K route would co-locate with almost 90 miles of existing roads and electric and pipeline corridors, while the proposed project would co-locate with approximately 11 miles.</p> <p>The primary reasons for rejecting Alternative K include traversing the New York City water supply watershed, longer permitting processes, and impacts to forest wildlife. The DEIS does not adequately support the preferred alternative over Alternative K in that the amount of forest land crossed and total forest impacts is similar for both. The DEIS indicates that more forest-dwelling wildlife would be affected by Alternative K, based primarily upon the amount of forest <u>edge</u> lost. While there would be more forest edge impacted due to co-location, new impacts to forest interior would be significantly less with co-location as interior forest habitat loss has already occurred as a result of the previous projects. The amount of <u>interior</u> habitat affected by Alternative K would be significantly less at 127 acres as opposed to 436 acres for the proposed route. The fact is that roads, pipelines, and power lines have all been built within the area of Alternative K and building another pipeline adjacent to this existing infrastructure would not cause significantly greater impacts to forest dwelling species than would the proposed route, which crosses 36 miles of interior forest habitat. Further, while special construction precautions must be used to protect water quality, linear projects have and probably will continue to be built in this watershed. Therefore, it is recommended that the FERC and Constitution reevaluate the importance of selecting an alternative which minimizes impacts to quality interior forest habitat. As FWS has mentioned in previous correspondence (October 5, 2012), in order to avoid important resource impacts, the project should be co-located with existing infrastructure to the greatest degree possible.</p>
FA4-21	<p>Alternative M was generally developed to follow the Interstate 88 highway corridor. Placement of the pipeline within the controlled access area of the highway is generally not preferred by state and federal highway agencies. However, construction adjacent to the highway is possible and not prohibited. As the DEIS points out, some areas occur on slopes and would pose construction challenges. This route was broken down into six segments to provide for a comparison with the preferred alternative. Alternative M Segments 3 and 5/6 would result in substantially less impacts to forest interior habitat. We recommend that Alternative M be given greater consideration than the preferred route because of fewer impacts to quality habitat and the fact that it generally follows disturbed areas.</p> <p>The New York State Department of Environmental Conservation (NYSDEC) along with the U.S. Environmental Protection Agency and the FWS has requested a more rigorous analysis of alternate routes including Alternatives K and M and surrounding areas. These agencies believe</p>

FA4-19

Possible collocation with the EmKey and Bluestone pipeline systems is discussed in section 3.3.3 and 3.3.4 of the EIS. As discussed in those sections, these pipelines meander due to their function as collection and gathering lines, generally rendering them infeasible for collocation with interstate transportation lines. Typically, interstate natural gas transmission pipelines do not meander in a manner similar to natural gas collection or gathering lines. Although transmission pipelines may not proceed in an entirely direct route due to collocation with existing utilities, avoidance of environmental resources and cities, and for other reasons, their overall purpose is to transport natural gas from a supply point to a delivery point. Additionally, transmission pipelines often require wider construction and permanent rights-of-way than collection and gathering lines, likely resulting in issues with successful design and construction of a collocated transmission pipeline. For these reasons, it is not practical for the Constitution pipeline to be collocated with either the EmKey or Bluestone systems at a level substantially beyond that proposed.

FA4-20

We considered the potential benefits and constraints posed by alternative K in section 3.4.1.1 of the EIS. We support the collocation of pipelines with existing utilities where practical and recognize the value of collocation in regard to environmental resources. Both the proposed route and alternative K have certain advantages environmentally. Alternative K is shorter in length, thereby affecting less land. It is also collocated with more existing rights-of-way than the proposed route resulting in less greenfield construction. Consequently, it would have fewer impacts on forest interiors, property owners, nearby residences, and shallow bedrock.

However, the proposed route crosses much fewer waterbodies, streams designated as drinking water supplies, areas within public water supply watersheds, and important bird areas and forest blocks of importance for birds as designated by the National Audubon Society. In particular, alternative K would cross an additional 19 miles of Audubon Society-designated Important Bird Areas, and 48 miles of Audubon Forest Blocks of Importance. The proposed route also avoids the New York City Water Supply Watershed (NYCWSW), which supplies unfiltered drinking water to approximately one-half of the State of New York. Alternative K would cross the NYCWSW for approximately 33 miles.

**FEDERAL AGENCIES**

**FA4 – United States Department of Interior (cont’d)**

FA4-20 (cont’d)	While we recognize that alternative K would affect less interior forest habitat than the proposed route, we evaluated numerous other environmental factors as well in our comparison as described above and we conclude that alternative K does not offer a significant environmental advantage over the proposed route.
FA4-21	Our analysis of alternative M is provided in section 3.4.1.2 including discussion of potential placement of the pipeline in the highway median, within or along the controlled access area, and adjacent to the highway outside of the controlled access area. We have re-analyzed alternative M particularly in relation to a route sub-alternative proposed by the NYSDEC. See the response to comments FA4-18 and FA4-20 regarding collocation and collocated alternatives.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

S-47

	6
FA4-21 cont'd	that constructing the Constitution pipeline adjacent to disturbed areas would reduce impacts to important resources such as streams, wetlands, and large blocks of interior forest. While habitat would still be lost as a result of Alternatives K and M, it appears that it would be less than the proposed alignment and to lower quality habitat, due to the presence of disturbed areas.
FA4-22	<b><u>Section 4.0 Environmental Analysis</u></b>  Geology of the project area is varied and includes approximately 45 miles of alignment with shallow bedrock, which may require blasting. However, Constitution indicates that the blasting locations cannot be determined until geotechnical investigations are complete. Blasting can be disturbing to wildlife. We recommend that Best Management Practices (BMPs) for blasting be used to limit wildlife impacts (see below for more information related to blasting and bald eagles). One source of information for BMPs is the Intermountain Oil and Gas Project website ( <a href="http://www.oilandgasbmps.org/">http://www.oilandgasbmps.org/</a> ).
FA4-23	Surface water resources potentially affected by the project include 277 waterbodies. The project would cross 124 perennial, 96 intermittent, and 57 ephemeral streams. Another 58 waterbodies are located in the construction right-of-way but not directly crossed. It is not clear from the DEIS if there will be indirect impacts to these areas such as erosion, sedimentation, or changes in hydrology or water quality due to adjacent construction. A statement on Page 4-52 indicates that Constitution would avoid impacts "to the extent practicable". Instead of requiring specific impact information to be contained within the DEIS for public review, the FERC indicates that the information can be submitted separately at another time. Like many sections of the DEIS, this lack of information does not allow the reader to understand the full scope of impacts that would result from the project. A thorough analysis of impacts should be presented in the revised DEIS.
FA4-24	Constitution proposes to withdrawal approximately 22.5 million gallons of water from five local waterbodies to hydrostatically test the pipeline for leaks. The DEIS indicates that Constitution would ensure that base flows in source streams were maintained, but does not provide any details on monitoring the waterbodies before or after the withdrawal. Nor are there details about when the water would be withdrawn. Some of these waterbodies are classified as fisheries of special concern. We are concerned with potential impacts to aquatic communities if water withdrawals are excessive or occur during periods of low flow. Additional water will be needed for dust suppression and to create drilling mud for horizontal directional drilling. It is not explained in the DEIS why local reservoirs or the Susquehanna River cannot be used as a water source. These would be preferable sources and should be investigated. We recommend water withdrawals from streams not occur during periods of low flow (typically June through August) or when this activity would impact fish spawning. Coordination should be undertaken by Constitution with the Delaware and Susquehanna River Basin Commissions to determine appropriate locations and methods of water withdrawal.  When testing is completed the used water would be discharged onto the ground. Measures should be implemented to avoid discharge into sensitive areas. Any damaged areas should be restored which would include adding plantings and seeding. Constitution should coordinate with local communities and the NYSDEC for potential beneficial uses of this water (fire protection, irrigation, etc.), if appropriate.
FA4-25	According to the DEIS, the project would affect 91.8 acres of wetlands, including 32 acres of forest, 25 acres of scrub-shrub, and 34 acres of emergent wetland habitat. Most of the impacts

FA4-22

As discussed in section 4.6.1.4 of the EIS, Constitution stated in its general blasting plan that "Blasting in or near environmentally sensitive areas, such as streams, wildlife areas, or cultural resource areas may include additional restrictions, which will be included in the site-specific Blasting Specification Plans." As we recommended in section 4.6.2.3 of the EIS, Constitution would be required to develop site-specific blasting plans in coordination with the state resource agencies to protect fisheries and aquatic resources from the potential effects of blasting in waterbodies.

Bald eagles are discussed in section 4.7.3 of the EIS. Constitution has indicated that it is consulting with the FWS and the NYSDEC to determine if blasting within 0.5 mile of bald eagle nests would present a significant impact on bald eagles. In addition, Constitution is developing a mitigation plan for potential blasting in the vicinity of bald eagle nests that will be provided to the FWS for review and concurrence. We recommended that prior to construction Constitution file a final bald eagle mitigation plan, developed in coordination with the resource agencies including the FWS for our review and approval.

FA4-23

Waterbody crossing methods (section 2.3.2.2), resources and impacts, including impact discussions on a crossing-method specific basis (section 4.3.3), and descriptions and proposed methods on a waterbody-specific basis (appendix K) are discussed in detail in the EIS. Based on Constitution's response to our recommendation in section 4.3.3.5 of the draft EIS, we have updated the EIS in regard to waterbodies that would be affected by workspace but that would not be directly crossed by the pipeline. Collectively, the information provided in the EIS does allow the reader to understand the full scope of impacts that would result from the proposed projects.

Impacts on surface waters are discussed in section 4.3.3.6 of the EIS. As stated in section 4.3.4 of the EIS, no long-term impacts on surface waters are anticipated as a result of the proposed projects because Constitution would not permanently affect the designated water uses, it would bury the pipeline beneath the bed of all waterbodies, it would implement erosion controls, and it would restore the streambanks and streambed contours as close as practical to pre-construction conditions. Operation of the projects would not cause impacts on any surface waters, unless maintenance activities involving pipe excavation and repair in or near streams are required in the future. For any necessary maintenance activities, Constitution and Iroquois would employ protective measures similar to those proposed for use during construction. As a result, we conclude that any impacts derived from maintenance would be short term and similar in nature (if not in scale) to those discussed for the initial pipeline construction.

**Federal Agency Comments**

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

FA4-24

The EI would be primarily responsible for ensuring that adequate baseflows are maintained in waterbodies proposed as a water source. The FERC's compliance monitors would also confirm that the proper procedures were used. As discussed in section 4.3.3.5, Constitution would withdraw about 22.5 million gallons of test water from five local surface waters between December 2014 and March 2015 (consistent with the FWS' recommendations). Following testing, hydrostatic test water would be discharged into well vegetated upland locations within the same watershed as the source water, thereby preventing inter-basin transfers. Discharges would occur through a filtering and energy dissipating device to prevent sedimentation and to reduce erosive forces.

Constitution has adopted our Procedures which state "Do not use state-designated exceptional value waters, waterbodies which provide habitat for federally listed threatened or endangered species, or waterbodies designated as public water supplies, unless appropriate federal, state, and/or local permitting agencies grant written permission; maintain adequate flow rates to protect aquatic life, provide for all waterbody uses, and provide for downstream withdrawals of water by existing users." Constitution intends to submit water withdrawal permit Applications to the Susquehanna River Basin Commission, the Delaware River Basin Commission, and the NYSDEC. These agencies would decide whether Constitution would obtain water from its proposed sources. Typically, given the high volumes of water needed for hydrostatic testing of long, large diameter pipelines, water sources are crossed by the pipeline construction right-of-way in order to prevent the need for transport of water from a more distant source by hose, pipe, or truck. In the case of Constitution's pipeline, each of the proposed water sources would be crossed by the pipeline route.

FA4-25

See the responses to comments FA4-3 and FA4-11. The COE has indicated that it will require full and complete surveys of all parcels to assess Constitution's project under the Clean Water Act.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

S-49

FA4-25 cont'd	<p>would result from the pipeline. However, we note that approximately 30 miles (24 percent) of the project area has not yet been surveyed due to restricted access by landowners. Therefore, the impacts could be higher. National Wetlands Inventory maps were used to determine if wetlands were located on inaccessible areas. It is important for the FERC to understand that these maps are produced from high altitude imagery and do not identify all wetland areas, particularly small wetlands. The maps cannot substitute for field surveys and should not be relied upon to make wetland impact determinations. Therefore, we recommend the entire project area be field surveyed and the information be included in the DEIS. This information is necessary to obtain a permit for wetland encroachment as required by the Clean Water Act (CWA). In the Public Notice issued by the Corps for a CWA permit, no determination is made on whether this project must apply for a Nationwide Permit or an Individual Permit. Given the large scope of the project and the level of the impact, we will recommend that an Individual Permit be required for this project.</p>
FA4-26	<p>In addition, the CWA requires that any project which applies for a Section 404 permit to fill jurisdictional wetlands conduct an alternative analysis to determine if all feasible measures to avoid and minimize impacts have been implemented. The Corps cannot issue a permit for wetland encroachment until this information has been provided. We remind the FERC that wetlands provide important habitat for wildlife as well as functions that benefit society such as flood flow retention, sediment and nutrient trapping, water filtration, and biologically productive areas. Therefore, measures to limit wetland loss are important.</p> <p>The DEIS indicates, on Page 4-61, that wetland crossing methods would be determined during construction based upon soil stability and saturation. As the crossing method has not been determined at this point, the impacts from construction are unknown and the DEIS is incomplete. We recommend sufficient information be gathered about wetland and stream conditions so that appropriate avoidance and minimization measures can be planned and implemented. The measures ultimately employed for the crossings should be included in the revised DEIS for review and comment.</p>
FA4-27	<p>On Page 4-64, the DEIS lists construction measures to implement near streams and wetlands. We note that control of invasive plant species is not on this list. This should be added as a requirement. Invasive plants can preclude beneficial plant species and affect the biological functions of wetlands. Construction activities can spread seeds and plant parts and ground disturbance can favor invasive species. Therefore, all invasive plants close to proposed disturbed areas should be removed by appropriate methods prior to project construction. We recommend Constitution identify and incorporate BMPs into the project documents which will limit the spread of invasive species.</p>
FA4-28	<p>Mitigation for lost wetland functions and values is required by the CWA; however, no details are provided in the DEIS. The Corps should not issue a permit for this project until all potential impacts are analyzed and measures have been identified to avoid, minimize, and mitigate wetland loss to the greatest extent practicable. The statement on Page 4-67 which indicates that mitigation banking is not available in New York is inaccurate. There are several of these banks operating in the state; however, none are near the project.</p>
FA4-29	<p>According to the DEIS, construction of the pipeline could disturb more than 1,650 acres of land with approximately 700 acres or more being permanently retained for the operation of the project. Clearing of upland forest would result in the impact to more than 1,024 acres of habitat</p>

FA4-26

We recommended that Constitution further justify the use of permanent fill in waterbodies and wetlands for access roads in section 4.3.3.1 of the draft EIS, and Constitution provided additional information. Sections 4.3 and 4.4 of the final EIS have been updated and now include a recommendation that permanent fill not be used in either waterbodies or wetlands to construct access roads. The FERC is familiar with the COE's section 404 process, and the COE is a cooperating agency for the development of this EIS. Section 4.4 of the EIS acknowledges the important biological and societal functions of wetlands. Constitution would collocate with existing corridors to the extent practicable and generally would be traversing wetlands that have been previously disturbed in such areas. Constitution would reduce the construction and permanent right-of-way width through wetlands as an impact minimization measure.

Wetland crossing methods (section 2.3.2.1 and elsewhere in section 2), resources and impacts (section 4.4), and descriptions and proposed methods on a wetland-specific basis (appendix L) are discussed in detail in the EIS. The wetland crossing methods for each wetland are known and listed in appendix L. It is possible that a proposed wetland crossing method could change, potentially resulting in less impact, based on conditions at the time of crossing. For additional impacts through wetland areas from what is discussed in the EIS, Constitution would have to request a variance during construction and provide justification for those additional impacts.

FA4-27

Although Constitution's invasive species plan is summarized in section 4.5.4, it is referenced in section 4.4.4. (Wetlands). See the response to comment FA4-9. As stated in section 4.4.4 of the EIS, wetland restoration would not be considered successful unless invasive species and noxious weeds are absent, unless they are abundant in adjacent areas that were not disturbed by construction. Herbicides would not be used within 100 feet of wetlands unless they are approved by the permitting agencies. If herbicides can't be used in wetlands, then mechanical removal methods could be used. Constitution would limit its control of invasive species to the certificated construction right-of-way and would not be authorized to conduct activities outside of approved work areas without express approval from the FERC and other applicable permitting agencies.



**FEDERAL AGENCIES**

**FA4 – United States Department of Interior (cont’d)**

- FA4-28

Information regarding mitigation for wetland impacts and how it relates to the COE permitting process is provided in section 4.4.5 of the EIS. We have updated section 4.4 to indicate that wetland mitigation banks are operating within the State of New York, but that none are near the project area.
- FA4-29

The acreages noted reflect different impacts based on the type of facility. The draft EIS accurately noted that 983 acres of forest habitat would be directly affected by the construction right-of-way and that a total of 1,024 acres of forest habitat would be directly affected by the construction right-of-way and the aboveground facilities and access roads.

Constitution’s Preliminary Migratory Bird and Upland Forest Plan was filed on May 6, 2014 ([http://elibrary.ferc.gov/0/idmws/file\\_list.asp?document\\_id=14213683](http://elibrary.ferc.gov/0/idmws/file_list.asp?document_id=14213683)). The Plan was developed in coordination with the FWS and state agencies. The EIS has been updated with our assessment of this draft plan.

We have updated section 4.5.3 of the EIS to reflect indirect impacts that would occur to adjacent tracts of interior forest that would not be directly affected by clearing. Generally, this indirect effect caused by the creation of a new forest edge would extend about 300 feet into the remaining forest block.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

S-51

FA4-29 cont'd	<p style="text-align: right;">8</p> <p>(Table 4.5.5-1). We note that the text on Page 4-68 provides a different estimate (983 acres). This needs to be reconciled in the revised DEIS.</p> <p>However, since the DEIS was written, several changes have been made to the project alignment involving several access roads and other infrastructure. Therefore, the estimate of forest habitat loss will change. As we have stated in our previous comments, we have serious concerns about the loss of this amount of habitat and the effects of forest fragmentation on the remaining forest blocks. Appendix M indicates that more than 190,000 linear feet (almost 36 miles) of interior forest would be impacted by the project. This would result in the direct loss of more than 439 acres of interior forest on 539 different tracts. While Constitution has attempted to reduce this loss by narrowing the right-of-way by 10 feet in some areas and has proposed a mitigation plan, it will not diminish the impact of fragmentation to remaining forest areas. The proposed Upland Forest Mitigation Plan has not yet been provided for review. However, it is not clear how this plan or the measures proposed by Constitution would mitigate the fragmentation of all of the interior forest.</p> <p>During the coordination with the FWS, it was agreed that Constitution would calculate the indirect impact of forest fragmentation. This calculation would involve identifying areas where the project's effect extends 300 feet into the forest interior on each side of the right-of-way. This distance is based upon studies by Jones et al. 2001 and Robbins et al. 1989 (however, the distance can vary based upon a number of factors such as other disturbances and forest species being considered). This analysis appears to be missing from the DEIS and should be included in the revision.</p> <p>Fragmentation of forest not only results in habitat loss, but also can lead to reduction in habitat quality, isolation of individuals, reduced occupancy, reproduction, or survival in a particular species (Andren 1995). Smaller forest blocks provide less habitat and are more affected by changes in temperature, sunlight, humidity, and plant communities (Murcia 1995). Higher levels of predation and nest parasitism have also been documented (Brittingham and Temple 1983, Robinson et al. 1995).</p>
FA4-30	<p>Constitution proposes to limit tree clearing and vegetation removal in upland areas outside of the breeding bird season (generally April to August) in most areas. This will reduce mortality and limit some impact on breeding activity. Even though tree clearing would be done outside of the nesting season for the most part, there will be construction activity in cleared areas during the breeding season and this will have an impact on adjacent forest-dwelling species. Construction noise, lights, dust, and emissions could all disrupt wildlife activity. Cumulatively, these impacts could have an impact on wildlife. In several locations in the DEIS, it is mentioned that trees within the right-of-way will be removed for the life of the project, but the document does not indicate how many years that will be. For these reasons, Constitution should provide mitigation for impacts to migratory bird habitat.</p>
FA4-31	<p>The Upper Susquehanna Coalition (USC) is a network of 16 Soil and Water Conservation Districts in New York and 3 Conservation Districts in Pennsylvania. They work with a long list of government agencies, non-government organizations, and academic institutions to protect and improve water quality and natural resources in the Upper Susquehanna River Basin of Pennsylvania and New York. One of their many projects is to identify important areas for conservation, including large forest blocks and wildlife travel corridors within the watershed. Mapping from this group indicates that the Constitution project will bisect some of these areas identified in Broome, Chenango, Delaware Counties, New York, and Susquehanna County,</p>

FA4-30

We recognize the indirect impacts of construction on adjacent forested areas within the EIS, including noise and dust disrupting wildlife activity. We recommended in section 4.5.3 that Constitution develop an upland forest mitigation plan in coordination with the FWS and state agencies and that this plan include mitigation for impacts on migratory birds. The EIS has been updated with our assessment of this draft plan.

As stated in section 4.0 "A permanent impact could occur as a result of any activity that modifies a resource to the extent that it would not return to pre-construction conditions during the life of the projects." Therefore, we consider that impacts occurring "over the life of the project" would be permanent.

FA4-31

The EIS has been updated to include the information provided by the FWS regarding wildlife travel corridors. The EIS already contains information regarding interior forests (section 4.5.3) and forest habitats (section 4.6.1), and lists specific interior forest blocks that would be crossed (appendix M). Interior forest blocks that would be affected by the pipeline project were listed in appendix M of the draft EIS, including numerous areas within the milepost ranges listed in comment FA4-31.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

S-52

	9
FA4-31 cont'd	Pennsylvania. The project would cross wildlife travel corridors from approximately milepost 14 to 45 and forest blocks from milepost 36 to 47 in Broome and Chenango Counties and most of the route in Delaware County. Similarly, the project would cross forest blocks in Susquehanna County from milepost 15 to 23. The DEIS does not contain this information nor does it discuss this system of forest blocks and travel corridors in detail. It is recommended that Constitution contact the USC for more information and data related to these resources.
FA4-32	The DEIS points out that the loss of fragmentation of forests is bad for other animals besides birds. However, we found little information in the document that describes what these impacts may be to mammals, reptiles and amphibians. For example, there is only one reference to a single salamander species and no references to snakes, other than the timber rattlesnake ( <i>Crotalus horridus</i> ), primarily because it is a species of concern. Likewise, the only reference to turtles was the bog turtle ( <i>Clemmys</i> [= <i>Glyptemys</i> ] <i>muhlenbergii</i> ), because it is a federally-listed species. Reptiles and amphibians can be negatively impacted by pipelines through loss and fragmentation of habitat, reduced habitat quality, particularly in wetlands, and mortality from construction. The document should be revised to provide more information. Data on reptile and amphibian species' range expected to be found in the project area can be found on the NYSDEC website (see NY Herp Atlas Project- <a href="http://www.dec.ny.gov/animals/7140.html">http://www.dec.ny.gov/animals/7140.html</a> ).
FA4-33	A total of 108 waterbodies, which are classified as having fisheries of special concern, would be crossed by the project. Many of these are cold water fisheries capable of supporting trout and some are stocked with fish to provide recreation. We support the recommendation of the NYSDEC that these fisheries should only have in-stream work between June 15 and September 30 in order to avoid disruptions to trout spawning activity.
FA4-34	Construction work in streams will mostly be accomplished by use of dry crossing methods (flume, dam, and pump or cofferdam). These methods will be used on 85 percent of the streams while the other 15 percent would use trenchless methods such as horizontal drilling, conventional bore, or direct pipe. Because trenchless methods involve no direct impacts to the stream, we recommend this method be used for all waterbodies classified as fisheries of special concern. This would avoid impacts to sensitive and important fishery resources. For those streams where dry crossings are used, we recommend Constitution take precautions to protect biota such as removing fish, amphibians, and reptiles from work areas prior to start of construction, maintaining flow rates from upstream to downstream areas at all times, and slowly releasing water behind dams back into the stream upon completion of work. Special attention should be given to erosion and sedimentation control measures used near streams to prevent stream bank erosion and water quality impacts. We recommend an environmental monitor be on site when in-stream work is being completed.
FA4-35	In previous correspondence the FWS recommended that Constitution coordinate with the NYSDEC for information on sensitive aquatic species such as the hellbender ( <i>Cryptobranchus alleganiensis</i> ) and freshwater mussels which are known to occur in the Susquehanna River basin. These species may be adversely affected by changes in water quality or habitat disturbance. However, there is no mention of the hellbender in the DEIS. Surveys may be needed in locations of pipeline crossings of the river or its tributaries. Additional information should be added to the revised DEIS concerning this species.

FA4-32

Representative wildlife species, habitats, and potential impacts (including potential beneficial impacts for forest-edge species) are discussed in section 4.6 of the EIS. We have added general information to section 4.6 regarding mammals, reptiles, and amphibians.

FA4-33

Comment noted. Section 4.6.2 of the EIS reflects the NYSDEC's recommendation regarding allowable in-stream work windows.

FA4-34

Based on our request, Constitution evaluated the potential for using trenchless crossing methods for sensitive or high quality waterbodies. We concur with Constitution's assessment that it is not practicable to use trenchless crossing methods where waterbodies were listed as ephemeral or intermittent (because these waterbodies are likely to be dry at the time of crossing) or for waterbodies less than 30 feet in width (as extra workspaces needed would offset potential benefits). Of the 29 waterbodies selected for additional analysis, 14 would be crossed using trenchless methods and 15 waterbodies would be crossed using the dry crossing method, which is consistent with coordination conducted with the NYSDEC.

Because dry crossing methods do not involve the stoppage, storage, or blockage of flow, and instead involve bypassing the flow around the work area, adequate flows would be maintained downstream.

As stated in section 4.6.2.3 of the EIS; "Constitution would attempt to capture aquatic organisms in areas that would be dewatered and would relocate them immediately downstream of construction operations."

Stream bank protection and restoration measures are discussed in sections 2.3.2.2, 4.3.3, and 4.6.2 of the EIS. Constitution's EIs and the FERC's compliance monitors would observe all construction activities, including waterbody crossings.

**FEDERAL AGENCIES**

**FA4 – United States Department of Interior (cont’d)**

FA4-35                      The hellbender is listed as a species of special concern in New York. Given Constitution’s proposed use of dry crossing methods, commitment to remove fauna from de-watered areas, and stream and stream bank protection and restoration measures, we conclude that the proposed pipeline would not cause an adverse impact on the hellbender. Further, we recommended in the EIS that Constitution should file with the FERC the results of any outstanding surveys for New York and Pennsylvania state-listed species and identify additional mitigation measures developed in consultation with the applicable state agencies. Section 4.7.3 has been updated accordingly.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

S-54

		10
FA4-36	<p><b>Endangered Species Act</b></p> <p>The FERC requested that the FWS consider the DEIS as the biological assessment (BA) for the purposes of conducting ESA Section 7(a)(2) consultation procedures. The DEIS addresses the potential for impacts to the following federally-listed endangered species: Indiana bat (<i>Myotis sodalis</i>) and dwarf wedgemussel (<i>Alasmidonta heterodon</i>); and the following federally-listed threatened species: bog turtle and northern monkshood (<i>Aconitum noveboracense</i>).</p> <p><i>Indiana bat</i></p> <p>Mist-net and acoustic surveys (Page 4-97) were conducted in the Pennsylvania portion of the project in 2012 and 2013 and Indiana bats were not captured or detected. The project is located outside the current range of the species in New York. The FERC has determined the project may affect, but is not likely to adversely affect, the Indiana bat given the survey results and project location. We concur with this determination.</p>	
FA4-37	<p><i>Dwarf wedgemussel</i></p> <p>Habitat surveys were conducted at 35 waterbodies in 2013 and the DEIS states that no habitat or individual dwarf wedgemussels were found in the project area (Page 4-97). The DEIS also states that "Prior to construction, Constitution should develop impact avoidance or effective impact minimization or mitigation measures (e.g., utilization of trenchless crossing methods or mussel relocation) in consultation with the FWS, the PFBC, the PGC, the PADCNr, and the NYSDEC for any dwarf wedgemussels encountered during construction." The FERC has determined the project may affect, but is not likely to adversely affect, the dwarf wedgemussel because no individuals or suitable habitat were found during surveys in 2013 and because of recommendations to develop avoidance, minimization, or mitigation measures. The FWS cannot concur with this determination because to date we have not received copies of the dwarf wedgemussel survey report. If the FERC believes habitat is not found in the project area based upon field surveys, then they should reevaluate the "not likely to adversely affect" determination.</p>	
FA4-38	<p><i>Bog turtle</i></p> <p>Historically bog turtles were found in Otsego County but are now believed to be extirpated (Page 4-97). The FERC has determined the project will result in no effects to the bog turtle as no suitable habitat for the species will be impacted. We have no further comments on this species.</p>	
FA4-39	<p><i>Northern monkshood</i></p> <p>Surveys for northern monkshood were conducted in 2012 and 2013 as described on Page 4-97. All but four parcels with potential suitable habitat were surveyed and no plants were found. The DEIS includes several measures in the event populations are found in the future. The FERC has determined the project may affect, but is not likely to adversely affect, the northern monkshood because no plants were found during the surveys and because of recommendations to develop avoidance, minimization, and mitigation measures. The FWS cannot concur with this determination because some areas have not yet been surveyed. If any individuals of the species are anticipated to be adversely impacted (i.e., avoidance is not fully possible), formal consultation is required.</p>	

FA4-36 Comment noted regarding the Indiana bat.

FA4-37 As indicated in section 4.7.2, we have recommended that construction not begin until all surveys for federally listed species (including the dwarf wedgemussel) are complete, the FERC concludes section 7 consultation with the FWS, and the FERC notifies the applicants in writing that construction and/or mitigation may begin. Three waterbodies in the project area have not yet been surveyed for dwarf wedgemussels because survey permission has not yet been obtained. Therefore, we also included a species-specific recommendation for the dwarf wedgemussel stating, "Prior to construction, Constitution should develop impact avoidance or effective impact minimization or mitigation measures (e.g., utilization of trenchless crossing methods or mussel relocation) in consultation with the FWS, the PFBC, the PGC, the PADCNr, and the NYSDEC for any dwarf wedgemussels encountered during construction." These recommendations were the basis for our *not likely to adversely affect* determination. We understand that the FWS may not provide concurrence until the remaining surveys have been completed and any follow-up effects discussions between the FERC and the FWS are completed. This is consistent with our recommendation. See also the response to comment FA4-3.

FA4-38 Comment noted regarding the bog turtle.

FA4-39 We acknowledge that surveys for the northern monkshood at four locations have not been completed due to lack of access. See the response to FA4-37 for a related scenario of ongoing section 7 consultation. We included a species-specific recommendation and stated in section 4.7.2 of the EIS that "Prior to construction, Constitution should file with the Secretary, the results of completed Northern monkshood surveys and Constitution's consultation with the FWS and the NYSDEC regarding the results. Constitution should file the avoidance/minimization measures it would use in the event that Northern monkshood are found either prior to or during construction including avoidance of plant locations and associated habitat, as feasible, including "necking-down" or reducing construction footprint; the feasibility of boring or HDD; and the feasibility of transplanting and seed banking (only after all other options are considered)." These recommendations were the basis for our *not likely to adversely affect* determination.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

11

FA4-40 At this time, the FWS cannot concur with the FERC's determination that the project may affect, but is not likely to adversely affect, the dwarf wedgemussel and the northern monkshood. We look forward to receiving final survey results, plans for avoidance of impacts, and a more robust assessment of the potential for impacts to these species.

The FWS concurs with the FERC's determination that the project may affect, but is not likely to adversely affect, the Indiana bat and we have no further comments regarding the bog turtle. Should project plans change, or if additional information on listed or proposed species or critical habitat becomes available, these determinations may be reconsidered. The most recent compilation of federally-listed and proposed endangered and threatened species in New York is available for your information. Until the proposed project is complete, it is recommended that you check the FWS website every 90 days from the date of this letter to ensure that listed species presence/absence information for the proposed project is current. Additional information may be found on our website at: <http://www.fws.gov/northeast/nyfo/es/section7.htm>

FA4-41 Bats

The DEIS also discusses three special-status bat species: the eastern small-footed bat (*Myotis leibii*), listed as a threatened species in Pennsylvania and a species of concern in New York; the northern myotis [northern long-eared bat] (*Myotis septentrionalis*) (NLEB), a species the FWS has proposed listing as endangered; and the silver-haired bat (*Lasionycteris noctivagans*), listed as a Pennsylvania species of concern.

It is recommended that text on Page 4-101 be edited to modify the bullet "northern myotis, which is listed as proposed endangered by the FWS...." to indicate that, "the northern myotis, a species the FWS has proposed listing as endangered." This is recommended because the species is not "listed" as anything at this time.

On Page 4-101 the DEIS states, "In December 2013, FWS stated that the eastern small-footed bat did not warrant listing, but the northern myotis bat was proposed as an endangered species." Please revise the document as the final determination for the eastern small-footed bat and the NLEB proposed rule was published on October 2, 2013.

The NLEB was captured/detected during surveys of the Pennsylvania portion of the project (Page 4-102). Constitution has proposed conducting the majority of tree clearing between September 1 and April 1. The DEIS states that "Prior to construction, Constitution should develop avoidance, minimization, or mitigation measures... for construction between April 1 and October 31 to minimize impacts on the small-footed bat, Northern myotis, silver haired bat, and little brown bat." Constitution met with the FWS's New York Field Office on April 2, 2014, to discuss additional NLEB survey options and conservation measures. However, additional coordination is necessary.

As mentioned above, the NLEB is currently proposed for listing under the ESA. While the ESA prohibits unauthorized "take" of fish and wildlife species listed as endangered or threatened,

<sup>1</sup> Section 3 of the ESA defines "Take" as, "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The term "Harm" is further defined by the FWS to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering. "Harass" is further defined by the FWS as actions that

FA4-40

See the responses to comments FA4-37 and -39. The recommendation to utilize updated information available on the FWS website is noted.

FA4-41

We have revised the EIS to include the FWS's recommended edits concerning the northern myotis (also known as the northern long-eared bat) and eastern small-footed bat. The DOI's statement that additional coordination between Constitution and the FWS regarding bat species is noted and Constitution will be continuing to consult with the FWS as our non-federal representative. We included a bat-specific recommendation in section 4.7.3 of the draft EIS stating that, "Constitution should develop impact avoidance, minimization, or mitigation measures in coordination with the FWS and the PGC for construction between April 1 and October 31 to minimize impacts on the small-footed bat, silver haired bat, and little brown bat. Constitution should file any such measures with the Secretary." See also the response to comment FA4-37. Collectively, our recommendations were the basis for our not likely to adversely affect determination. Construction would not begin, and impacts would not occur, until the FERC completes section 7 consultation with the FWS and the necessary mitigation is in place. We note that the FWS has delayed a decision on the proposed listing status of the northern long-eared bat from October 2014 until April 2015.

Section 4.7.3 of the draft EIS discloses the potential for bat mortality (included the northern myotis) resulting from tree clearing.



# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

12

FA4-41  
cont'd

*proposed* species are not afforded this protection. However, 30 days after publication of a final listing rule, take prohibitions become effective. The FWS anticipates a final listing decision for the NLEB by October 2014. The FWS is encouraging all federal and non-federal landowners and project developers to implement conservation measures for NLEBs. If the species becomes listed, project proponents will need to avoid adverse effects unless and until they have incidental take authorization (i.e., biological opinion is issued). Therefore, for projects that are currently in the planning stage, such as this project, the FWS is recommending coordination with field offices now so as to avoid potential project delays in the event the species becomes listed. Therefore, the FWS recommends updating the DEIS to fully address the potential for adverse effects to the NLEB. The FWS does not agree with the FERC's assessment that "construction and operation of the project would not result in adverse impacts on sensitive bat species" since avoidance, minimization, and mitigation measures have not yet been determined. Also, the DEIS fails to address the potential for killing or injuring the NLEB that may be roosting in trees during tree clearing activities.

FA4-42

Bald eagles (*Haliaeetus leucocephalus*) were federally delisted in 2007, but remain protected under the MBTA, the BGEPA, and by the state of New York as a threatened species. The BGEPA defines "take" as to "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest or disturb" (16 U.S.C. 668c; 50 CFR 22.3). The FWS's National Bald Eagle Management Guidelines (Guidelines), which can be found at <http://www.fws.gov/northeast/ecologicalservices/eagle.html>, were developed to assist landowners in project planning and to minimize impacts to bald eagles, particularly where construction activities may constitute "disturbance." The BGEPA regulations (50 CFR 22.3) define "disturb" as "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause: (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior."

Existing information indicates that at least two bald eagle nests are known to occur within 0.5 mile of the proposed pipeline. The FWS's guidelines recommend that activity between the nest and the nearest foraging area be minimized and that activities be kept as far away from nest trees as possible. If loud and disruptive activities (i.e., blasting) are proposed, it is recommended that they be conducted outside the breeding season (see guidelines [Category H]). A 660 foot buffer should be maintained between all construction activity and the nests. In addition, landscape buffers, such as forested areas, should be maintained to provide a visual screen between blasting activities and the nests. If these recommendations cannot be implemented during construction or if new nests are identified in the vicinity of the project, the FWS should be contacted to see if a BGEPA permit is required. Constitution has indicated on Page 4-100 that bald eagle nest surveys would be conducted in winter/spring of 2014, but it is unknown if these surveys were completed. Further, no blasting mitigation plan has yet been submitted to the FWS as indicated.

FA4-43

**Cumulative Impacts**

The cumulative impact analysis reviewed existing pipelines, transmission corridors, roads, and other development and was provided in Table 4.13-1 with previous, current, and proposed projects being listed. However, noticeably absent from the list is the Millennium natural gas line which runs across the southern tier of New York State and is within the Constitution project area.

create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering.

FA4-42

We acknowledge that Constitution's surveys and proposed mitigation measures for bald eagles are not yet complete as stated in section 4.7.3 of the draft EIS. There, we recommended that "Constitution should file with the Secretary for review and approval by the Director of OEP the final bald eagle survey results, as well as the final bald eagle mitigation plan, developed in consultation with the FWS, the PGC, and the NYSDEC. The mitigation plan should include impact avoidance or effective impact minimization or mitigation measures for any nests encountered during the 2014 surveys. Specific mitigation, or approval from the applicable agencies, should be included for potential blasting within 0.5 mile of an active nest." The recommendation has afforded the FWS the direct opportunity to review the mitigation plan before its submittal to the FERC.

FA4-43

The comment regarding temporal and geographic scale for the cumulative impacts analysis is noted. The Millennium Pipeline has been in service since 2008. Our inclusion of recent past projects included those as far back as 2011.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

13

FA4-43 cont'd	The Millennium project should be added to the table and analysis. That project had substantial impacts to resources such as wetlands and forest habitat. Similarly, two other completed pipelines under FERC jurisdiction, the Tennessee Gas 300 Line and Northeast Upgrade projects, were not included in the analysis based upon their distance, scope, and schedule. Few details were provided on these projects, but the FERC considers projects 10 miles away to be too far to be included in the analysis. However, when considering regional impacts from multiple natural gas pipelines on resources, such wildlife or habitat, this distance does not seem excessive. When considering impacts on a regional scale, a distance of 25 or 50 miles seems more appropriate.
FA4-44	Although the DEIS lists projects and some resources which may be cumulatively affected by development, it does not quantify the impacts or provide a scale of the changes over time. This appears to be a serious flaw in that the cumulative analysis does not give the reader a sense of the magnitude of development in the affected region nor how the Constitution project contributes to resource change. It is suggested that this entire section be revised with more detailed information.
FA4-45	Regardless of the missing information, Table 4.13-1 has an extensive list of natural gas related development, particularly in Pennsylvania where Marcellus shale gas drilling is taking place. The DEIS indicates that a projection of similar development is speculative for New York State and was not included. However, even though high-volume, horizontal fracturing is not yet permitted in the state, the NYSDEC completed such an estimate (based on allowable drilling densities) and this information could be incorporated into the analysis. Consideration should be given to the Marcellus shale gas drilling and additional natural gas pipelines and infrastructure which may be required.
FA4-46	On Page 1-2 of the DEIS, it is stated that Constitution will enter into an agreement with the Leatherstocking Gas Company, LLC, to provide gas from the proposed pipeline to local communities along its route. At least four taps are planned but no details of the supporting infrastructure (distribution lines, metering stations, compressor stations, etc.) are provided. Unfortunately, the FERC does not attempt to evaluate the scope of this secondary impact, only stating on Page 4-217 "As of this time no concrete plans for this local distributor have been made." However, at least 9 communities have been identified to receive the gas. In the revised DEIS the FERC could at least provide the rough distances of these communities from the pipeline route and give a cursory overview of potential impacts to natural resources, and provisions should be included for supplements as more specific information is available.  Again, the DEIS cumulative impact section should be revised to include all pertinent information as required by the National Environmental Policy Act (NEPA) for this type of analysis. Included in the analysis should be the approximately 30 miles of the Constitution pipeline which has not been studied or included in this DEIS.
FA4-47	<b>Summary</b>  In summary, we recommend the FERC and the applicant provide a more rigorous environmental review of the Constitution Pipeline Project prior to project approval. Due to the quantity of missing information, it appears that the document does not meet NEPA standards. Most importantly, the DEIS does not have complete information for resources along approximately 30 miles of the project route. Further, the proposed alignment has been modified since the DEIS was released and plans are not complete for some access roads and other project infrastructure leaving the document with additional unknown resource impacts. Missing information about

FA4-44      Comment noted. Available information was used in the cumulative impacts analysis to the extent possible. Detailed information was not always available to quantify impacts.

FA4-45      The future of natural gas development in New York through high volume hydraulic fracturing is speculative and is not a reasonably foreseeable action, nor are the proposed projects dependent on such development in New York in any way. Marcellus Shale developments, including wells and pipelines, are discussed in the cumulative impacts section (4.13.1), and this section has been updated with additional information for the final EIS.

FA4-46      Detailed information regarding Leatherstocking's plans to provide new natural gas service along the proposed route of the Constitution pipeline was not available at the time of the draft EIS, as described in section 4.13.4, and was still not available at the time of publication of this final EIS. We have updated sections 1.1 and 4.13 to the extent possible with available information, but it is not possible to perform a fully complete cumulative impacts analysis of any natural gas distribution systems being considered by Leatherstocking in the absence of detailed information regarding the project's specifications. See the response to comment FA4-2.

FA4-47      See the response to comments FA1-1 and FA4-3.



FEDERAL AGENCIES

FA4 – United States Department of Interior (cont'd)

S-58

14	
FA4-47 cont'd	wetlands, protected species, and mitigation plans is also problematic. Finally, some construction plans have not been finalized and, therefore, it is difficult for other regulatory agencies to analyze the project and make informed permitting decisions.
FA4-48	Impacts to wetlands, streams, and forest habitat will be long-term and permanent in many cases. Of particular concern is the loss of over 1,000 acres of forest habitat, including more than 400 acres of interior forest. It appears that alternatives other than the proposed route could result in less impact to these resources, yet they were dismissed. Alternatives K and M could result in fewer impacts to these resources. Federal and state resource agencies remain concerned about the proposed location of the project and its impact on important resources.
FA4-49	Further coordination and consultation will be needed with the FWS regarding listed and proposed species prior to project construction. A plan to avoid blasting impacts on bald eagles may also be required. Based on project information, the FWS anticipates that wetland and forest mitigation plans will be provided for review and comment.
FA4-50	<p>Finally, the cumulative impact analysis section of the DEIS is missing important information on existing and proposed projects which may influence the report conclusions. The FERC should revise this section to include the projects mentioned and attempt to quantify the past, present, and foreseeable future impacts of other development projects in the region. This will assist in the public's understanding of the impacts of the Constitution pipeline project.</p> <p>For questions or more information regarding fish and wildlife resources, please contact Tim Sullivan, U.S. Fish and Wildlife Service, at 607 -753-9334 or</p> <p><b>References</b></p> <p>Andrén, H. 1995. Effects of landscape composition on predation rates at habitat edges. Pages 225–255 in L. Hansson, L. Fahrig, and G. Merriam, editors. Mosaic landscapes and ecological processes. Chapman &amp; Hall, London.</p> <p>Brittingham, M. C. &amp; S. A. Temple. 1983. Have cowbirds caused forest songbirds to decline? Bioscience33:31 – 35.</p> <p>Hames, R. S., J. D. Lowe, S. Barker Swarthout and K. V. Rosenberg 2006. Understanding the risk to neotropical migrant bird species of multiple human-caused stressors: elucidating processes behind the patterns. Ecology and Society 11(1): 24.</p> <p>Murcia, C.1995. Edge effects in fragmented forests: implications for conservation. Trends in Ecology and Evolution10:58 – 62.</p> <p>Robbins, Chandler S., Deanna K. Dawson, and Barbara A. Dowell. 1989. Habitat Area Requirements of Breeding Forest Birds of the Middle Atlantic States. Wildlife Monograph no. 103. Wildlife Society. Blacksburg, VA.</p> <p>Robinson, S. K., F. R. Thompson, III, T. M. Donovan, D. R. Whitehead, J. Faaborg. 1995. Regional forest fragmentation and the nesting success of migratory birds. Science267:1987 – 1990.</p>

FA4-48	See the responses to comments FA4-17, -20, and -21.
FA4-49	See the responses to comments FA4-37, -39, -41, and -42.
FA4-50	See the responses to comments FA4-43, -44, -45, and -46.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

S-59

	15
FA4-51	<p>U. S. GEOLOGICAL SURVEY</p> <p><b><u>Executive Summary</u></b></p> <p><b>Page ES-4</b> State-specific Environmental Construction Plans (ECPs) are mentioned here (and elsewhere) but are not supplied for review. The information in them is likely useful, therefore our evaluation of the EIS is likely incomplete or our questions may be addressed within the ECPs.</p> <p><b>Page ES-12</b> Mention of specific 'environmental' Plans is made, but again they are not available for review. Of greatest interest is the Karst Mitigation Plan.</p> <p><b><u>Section 2.0 Project Description</u></b></p> <p><b>Page 2-16</b> Karst Mitigation Plan is not available for review. While mentioned in Section 4, the Plan is not there either.</p>
FA4-52	<p><b>Page 2-17</b> Details on backfilling, padding around the pipe (clean soils), especially in rock-lined and rock-backfilled trenches lack sufficient detail for evaluation. Concerns here would be frost penetration, associated rock movement within the filled trench and initial pipeline settlement within the rock trench any of which might cause damage in the long term.</p>
FA4-53	<p><b>Page 2-27</b> Rugged topography – If groundwater is present during construction, or afterwards (seasonally dependent), it would be beneficial if the revised DEIS included an assessment of changes in local hydrology as it might affect nearby streams, many of which are designated as trout-class waters. Trench/slope breakers and re-routing of flow from these breakers to surface water and how that water might be handled is not clearly stated. The greater concern is such rock-cut construction in the eastern karst region. Loss of water into karst features exposed in rock-lined trenches might develop as point sources of increased dissolution and subsidence in the long-term.</p> <p>From our past experience, these pipelines can handle a lot of stress due to induced stresses such as slow, gradual subsidence, but sudden events such as landslides and rapid sinkhole development might cause greater stresses on the pipeline. No mention of long-term inspections (scheduled overflights or on the ground inspections) is mentioned in a clear fashion. Slope indicators were mentioned in suspected landslide areas, but how these units are maintained and inspected was not. In suspected areas of induced infiltration in karst areas similar types of monitoring might be required in 'suspect' areas, as evaluated by trained geotechnical personnel.</p>
FA4-54	<p><b><u>Section 4.0 Environmental Analysis</u></b></p> <p><b>Page 4-2</b> The statement, "The bedrock underlying the New York portion of the pipeline project consists of Mesoproterozoic metamorphic rock, the majority of which is overlain by till, recent alluvium, kame deposits, or is exposed." is not correct. The Mesoproterozoic metamorphic rocks are deeply buried below Devonian-age sedimentary bedrock.</p>

- FA4-51 As stated in section 2.3 of the EIS, Constitution's Environmental Construction Plans (ECPs), including the Karst Mitigation Plan, can be found at [http://elibrary.ferc.gov/0/idmws/file\\_list.asp?document\\_id=14160901](http://elibrary.ferc.gov/0/idmws/file_list.asp?document_id=14160901). The ECPs were filed with Constitution's Application in June 2013 and re-filed in November 2013. The ECPs are too voluminous to append to the EIS.
- FA4-52 Information regarding soils used for backfill, padding, and measures used to prevent rocks from damaging the pipeline in the trench is provided in section 2.3.1 of the EIS. The potential for ground heaving is discussed in 4.2.2.9. Pipeline companies monitor the permanent right-of-way following construction and during operation for potential issues such as subsidence, and repairs would be made as necessary. As noted in section 4.12.1, Constitution would also use both caliper and smart pigs to identify pipeline defects, corrosion, and other areas in need of repair.
- FA4-53 Trench breakers that are designed to maintain hydrology at waterbodies and wetlands, as well as to prevent preferential subsurface flow along the buried pipeline, are discussed in numerous places in sections 2 and 4 of the EIS (as are slope breakers). Slope breakers would protect water resources by slowing and dispersing stormwater runoff. Potential impacts on groundwater flow and recharge are discussed in section 4.3.2.1 of the EIS. A pipeline inspection schedule is listed in section 2.6 of the EIS. See the response to comment FA4-52 regarding long-term internal (i.e., smart pig) inspections of the pipeline. Constitution's Karst Mitigation Plan, which include numerous measures to protect both groundwater and surface water resources, is described in section 4.1.5 of the EIS, and we recommended in section 4.1.3 of the EIS that Constitution adopt the mitigation measures and recommendations in that plan.
- FA4-54 The suggested edits have been incorporated into the EIS.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

09-S

FA4-54 cont'd	<p style="text-align: right;">16</p> <p>Lower paragraph - New York – 6<sup>th</sup> line – ‘surficial’ not ‘superficial.’</p> <p>TABLE 4.1.1-1 (see also page 4.4) The New York State Bedrock Geology map by Rickard and Fisher (1970) should not be listed as a reference for surficial geology as it is the reference for the New York State Bedrock Geology Map. The reference for the New York State Surficial Geology Map is Cadwell, D.H. <a href="#">Surficial Geologic Map of New York. Consists of 5 sheets, 1:250,000: Finger Lakes Sheet, 1986; Hudson-Mohawk Sheet, 1987; Niagara Sheet, 1988; Lower Hudson Sheet, 1989; Adirondack Sheet, 1991.</a> Map and Chart Series No. 40. 5 maps: 1:250,000.</p> <p><b>Page 4-4</b> Bedrock Geology –New York – While most of the bedrock is as described for the western and central part of the pipeline, the limestone and karst terrain of the Onondaga Limestone and Helderberg Group on the eastern end of pipeline should receive some mention here as there are specialized concerns that follow in the EIS dealing with karst terrain.</p> <p>We recommend against using different terms for the same surficial geologic unit. Bedrock (sandstone, siltstone, and shale) = Sandstone and Shale Bedrock; Alluvium = Recent alluvium; Wisconsinan Ice-Contact Stratified Drift = Kame deposits; Wisconsinan Till = Till. Please revise accordingly in the Revised DEIS. This should be resolved in the Revised DEIS.</p>
FA4-55	<p><b>Pages 4-13 and 14</b> Landslide hazards – while on the ground inspections are good, there is a need for better means to determine landslide susceptibility in the steep slope areas. While mature trees might indicate slope stability – no mention was made of the structure of the trees -- Jay-ed trees would be indicative of slope creep, while LiDAR imagery, using last-returns, should be considered for finding old landslide scarps, scars, and slope failure that are not visible in the forested terrain or from topographic maps.</p> <p>Following Hurricane Irene and Tropical Storm Lee (2011), several ‘ancient’ slides were reactivated, some with appreciable hill slope movement in the pipeline region. Not enough detail was given in the DEIS to determine to what degree Constitutions’ geotechnical consultants went to identify landslide potential on steep slopes.</p> <p>On page 4-14 it is noted that during construction Constitution EIs and construction crews would identify possible landslide conditions. What criteria would be used and how much training will be provided to the crews to do such evaluations? It is recommended that a geotechnical specialist assess all such locations, not “as necessary”. This specialist should inspect all steep slope areas during construction, document (written with digital pictures) any geologic anomalies – trained eyes see more than untrained eyes. Also, the ECPs for both states were not available through the EIS – therefore the above concerns might be answered within each ECP.</p>
FA4-56	<p><b>Pages 4-14 and 4-15</b> Karst topography – Identification of karst features is good but the Karst Mitigation Plan within the ECP for each state were not available through the DEIS, therefore it is difficult to assess what the plans address, how such features would be identified and documented, nor how mitigation practices would be employed during and following construction. The Mitigation Plan should be included in the Revised DEIS.</p>

FA4-55

The identification of potential landslide areas, as well as impact avoidance (including reroutes), minimization, and mitigation measures are discussed in detail in section 4.1.3.4 of the EIS. As stated in section 2.3 of the EIS, Constitution’s Environmental Construction Plans (ECPs), including the Karst Mitigation Plan (appendix J), and Geologic Hazard Mapping (appendix I and J) as well as Resource Report 6 – Geology and associated attachments including the full Geology consultants (GeoEngineers) “Geologic Reconnaissance” memorandum, “Seismic Hazards Comments Response” memorandum, “Geotechnical and Geology Report,” and “Constitution Pipeline Construction Erosion Control and Spring and Well Monitoring for Karst Areas,” can be found at [http://elibrary.ferc.gov/0/idmws/file\\_list.asp?document\\_id=14160901](http://elibrary.ferc.gov/0/idmws/file_list.asp?document_id=14160901). We recommended in section 4.1.3 of the EIS that Constitution adopt the mitigation measures and recommendations in the Geological Reconnaissance Memorandum dated October 4, 2013, which include additional field visits and reconnaissance that would be performed by qualified geologists and engineers, thereby decreasing the responsibility of EIs or construction personnel to identify landslide hazards.

FA4-56

See the response to FA4-51.

# FEDERAL AGENCIES

## FA4 – United States Department of Interior (cont'd)

19-S

17	
FA4-57	<p><b>Page 4-37</b> Second paragraph – Surficial aquifers are usually sand and gravel and not till, as presently stated. Till does not easily yield water and is not considered an aquifer.</p> <p>The sentence that follows about the pipeline and the presence of till on the hilltops and slopes is generally correct, but these conditions vary depending on slope orientation in relation to glacial ice movement.</p>
FA4-58	<p><b>Page 4-37</b> Sole Source Aquifers - Reference was made in several sections of the EIS concerning the Constitution pipeline being constructed in the Clinton-Ballpark aquifer. We believe this statement is incorrect, as the identified aquifer (Clinton-Ballpark) is located in the Binghamton- Johnson City area of <u>western</u> Broome County which is nowhere near the proposed construction. The authors might be referring to an aquifer study completed in 2012 for the valley-fill aquifer system in the Susquehanna River Valley which is referenced below. This study area is located in <u>eastern</u> Broome and southwestern Chenango Counties where pipeline construction is planned. There is no 'named' aquifer within this area.</p> <p><i>Heisig, P.M., 2012, Hydrogeology of the Susquehanna River valley-fill aquifer system and adjacent areas in eastern Broome and southeastern Chenango Counties, New York: U.S. Geological Survey Scientific Investigations Report 2012-5282, 21 p., at <a href="http://pubs.usgs.gov/sir/2012/5282">http://pubs.usgs.gov/sir/2012/5282</a>.</i></p>
FA4-59	<p>"The glacial outwash is thicker than 200 feet along the river valley... " – "glacial outwash" should be changed to glacial deposits (which include outwash, lacustrine, and ice-contact deposits).</p>
FA4-60	<p><b>Page 4-39, Table 4.3.1-2</b> Here and elsewhere in the EIS, two wells are identified as monitoring wells. Information on these (owner, depths, etc.) could be useful as a means to determine any impacts to these wells and aquifer during construction. Especially the one listed as being 0 feet from the work area.</p>
FA4-61	<p><b>Page 4-42</b> Information referring to the Clinton-Ballpark aquifer should be removed and revised.</p>
FA4-62	<p><b>Page 4-48</b> Early in the EIS there is a passing reference made that many of the streams in New York were trout streams which would receive some type of 'sensitive' designation, according to the information above Table 4.3.3-3. Follow-through with this designation appears 'spotty' in the following paragraphs. Does this mean that the streams in question would likely be 'dry' or would receive 'dry construction techniques' to protect this designated habitats? Will follow-through water-quality testing be applied during the first year or so following construction to assure that these streams are not affected? Pages 4-87-and 4-88 do address some of these concerns, but additional clarification would be beneficial.</p>
FA4-63	<p><b>Page 4-91</b> As evidenced by the accidental release of drilling fluids into Laurel Lake Creek (Susquehanna County, PA) and Larry's Creek (Lycoming Co., PA ) during recent Marcellus gas pipeline construction, directional drilling under streams that flow on fractured bedrock is problematic. The hydrogeologic setting of stream crossings where</p>

FA4-57	The suggested edits have been incorporated into the EIS.
FA4-58	The pipeline would cross about 4 miles of the Clinton Street Ballpark Sole Source Aquifer (SSA) in Broome County, New York at two locations (MP 25.2 and MP 40.0) based on Constitution's correspondence with the Broome County Health Department and Constitution's review of the EPA's NEPAAssist GIS program. The FERC staff also reviewed the NEPAAssist program and further coordinated with the EPA staff in the sole source aquifer program. Based on that coordination, we confirmed that the pipeline would cross the Clinton Street Ballpark SSA as described in the EIS. The Clinton Street Ballpark SSA is in part in eastern Broome County, New York. Further, the EPA confirmed that it did not recommend any additional impact avoidance, minimization, or mitigation measures for the SSA beyond those proposed by Constitution.
FA4-59	The suggested edits have been incorporated into the EIS.
FA4-60	The comment regarding the monitoring wells is noted.
FA4-61	See the response to comment FA4-58.
FA4-62	See the response to FA4-34. Selected waterbodies would be crossed with trenchless techniques, all others are proposed for dry crossing methods, which would limit impacts, particularly for turbidity and sedimentation. There are no current plans for water quality monitoring at these locations as the work would be conducted under dry conditions and the stream channel and banks would be restored prior to restoration of the flow.
FA4-63	As discussed in section 2.3.2 of the EIS, geotechnical feasibility evaluations would be completed prior to use of the HDD or direct pipe construction methods.

**FEDERAL AGENCIES**

**FA4 – United States Department of Interior (cont'd)**

FA4-63  
cont'd

this technique is to be employed needs to be evaluated and mitigation plans and materials need to be in place. This information should be included in the revised DEIS.  
For questions or more information, please contact John Williams, Groundwater Specialist, USGS New York Water Science Center, at 518-285-5670, or [jhwillia@usgs.gov](mailto:jhwillia@usgs.gov).  
Thank you for the opportunity to review and comment on this project. Please contact me at (617) 223-8565 if I can be of further assistance.

Sincerely,  
  
Andrew L. Raddant  
Regional Environmental Officer



# FEDERAL AGENCIES

## FA5 – United States Army Corps of Engineers



DEPARTMENT OF THE ARMY  
US Army Corps of Engineers, ATTN: CENAN-OP-RU  
Upstate Regulatory Field Office  
1 Buffington St., Building 10, 3<sup>rd</sup> Fl. North  
Watervliet, New York 12189-4000

Regulatory Branch

April 8, 2014

SUBJECT: U.S. Army Corps of Engineers File Number NAN-2012-00449-UBR, by Constitution Pipeline Company, LLC, Federal Energy Regulatory Commission Docket No. CP13-499; USACE Comments on Draft Environmental Impact Statement Published February 2014.

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A  
Washington, DC 20426

Dear Secretary Bose:

FA5-1 The United States Army Corps of Engineers (USACE) respectfully submits the following comments on Constitution Pipeline Company's Draft Environmental Impact Statement (DEIS) for the Constitution Pipeline project.

In December 2013, the USACE provided pre-publication comments pertaining to the DEIS which was published in February 2014. Although inclusion and clarification of a number of USACE comments were included in the DEIS; however, the following comments were not included/addressed and we reiterate their importance for inclusion in the Final EIS.

**Reference:** Page 1-3, last paragraph currently reads: "Constitution has field surveyed approximately 534....."

**Comment 1:** The original comment requested that the number of miles for both figures 534 and 707 be stated. As presented, the amount of survey work still left to do is not clearly stated. The numbers should quantify the remaining miles to survey, the number of unsurveyed tracts, and the percent of unsurveyed tracts. These numbers should be changed to reflect the most up-to-date information that Constitution has provided subsequent to filing the FERC application and should be broken down accordingly.

FA5-2 **Reference:** Page 2-14, Survey and Staking, first paragraph, last sentence currently reads: "In association with COE requirements, Constitution may also use orange safety fencing to identify wetlands of high value."

**Comment 2:** The original comment requested a statement indicating that wetland boundaries and other environmentally sensitive areas identified in easement agreements or by federal and state agencies would be marked and fenced with orange construction fence for protection. The intention of this statement has been misinterpreted in the DEIS. Placing orange construction fencing around ALL wetlands and ALL environmental sensitive areas as determined by the Federal and State agencies is not optional. The quality of a wetland is not a jurisdictional determinant. The goal is to keep construction equipment out of those areas to prevent unauthorized activities and unauthorized fill. The individuals operating equipment will not know where these areas are if they are

FA5-1 Updated information regarding the status of survey completion has not been filed with the FERC. Typically, for substantial projects such as the proposed Constitution pipeline, the percentage of overall tracts surveyed roughly corresponds to the number of miles surveyed. That assumption also was generally true according to information provided by Constitution during the pre-filing process. Section 1.2 of the draft EIS indicated that approximately 94 miles of surveys had been completed based on completed surveys at approximately 76 percent of the tracts. The proposed pipeline project would be 124.4 miles long.

FA5-2 See the response to comment FA4-4. Any additional requirements, such as the use of orange construction fence to mark off limits wetland zones, could be required by the COE as a part of the COE permitting process.

# FEDERAL AGENCIES

## FA5 – United States Army Corps of Engineers (cont'd)

-2-

FA5-2  
cont'd not clearly fenced off. Therefore, we request that the statement be rewritten as follows:

**"Wetland boundaries and other environmentally sensitive areas identified in easement agreements or by federal and state agencies will be marked and fenced with orange construction fence to ensure unauthorized fill or work activities do not occur in these areas."**

FA5-3 **Reference:** Page 3-31, fourth full paragraph currently reads, "If Alternative M were subsequently proposed as the preferred route, the FHWA, along with the NYSDOT, stated that they would need to complete additional review of the plan sheets (with I-88 access control lines) of the segments where the pipeline could approach and ultimately impact the I-88 control of access areas."

**Comment 3:** The original comment states that the USACE continues to have concerns that Alternative M has not been fully explored. To our knowledge, no formal approvals or denials have been issued by the NYSDOT and/or the FHWA for this Alternative. The USACE recommends the inclusion of any further documentation available regarding these approvals or the analysis of this Alternative.

FA5-4 **Reference:** Page 3-44, Minor Route Alternatives, first paragraph currently reads, "Although they can extend for several miles, minor route alternatives deviate from the proposed route less substantially than major route alternatives. Minor route alternatives are often designed to avoid large environmental resources or engineering constraints, and typically remain within the same general area as the proposed route."

**Comment 4:** The original comment pertained to the preceding paragraph in which routing factors were considered. The USACE recommended that Constitution reevaluate Alternative M segments that were determined to be "buildable" to reduce the overall environmental impacts, including aquatic impacts and impacts to interior forests. The new added paragraph does not address the comment.

FA5-5 **Reference:** Page 4-44, first paragraph currently reads, "Appendix K lists the 277 waterbodies that Constitution would cross..."

**Comment 5:** The original comment stated that, "On December 13, 2013, Constitution submitted to the USACE, summary tables for wetland and waterbody crossings for the project. The total waterbody crossings from these tables number 333. The DEIS should be supplemented with all up-to-date information prior to release for public review and comment." Information submitted by Constitution during preparation of the USACE Public Notice listed a total of 359 waterbodies crossed. The USACE recommends that the Final EIS include the most up-to-date information available from Constitution regarding all wetland and stream crossings.

FA5-6 **Reference:** Page 4-59, Existing Wetland Resources indicates that Constitution identified and delineated wetlands along the proposed pipeline route for which they had access during field surveys in 2012 and 2013. For areas that constitution was denied access, the National Wetlands Inventory (NWI) maps were used to determine approximate wetland locations and boundaries.

FA5-3 Section 3.4.1.2 of the EIS has been revised to provide an updated discussion of alternative M.

FA5-4 Alternative M, and sub-portions of alternative M, are evaluated in section 3.4.1.2 of the EIS.

FA5-5 Section 4.4 of the EIS, appendix K (waterbodies), and appendix L (wetlands) of the EIS is reflective of the most recent information filed by the Applicants with the FERC.

FA5-6 We assume the commentor is referring to appendix L (wetlands) rather than appendix K (waterbodies). As stated in footnote "a" of appendix L-1 and L-2, wetland IDs containing "XX" were identified using NWI maps.

S-64

# FEDERAL AGENCIES

## FA5 – United States Army Corps of Engineers (cont'd)

-3-

FA5-6 cont'd	<b>Comment 6:</b> The USACE requested that Appendix K and K2 of the DEIS indicate which wetlands were identified through field survey and which were identified using the NWI maps. In a majority of instances, the NWI maps were "flown" in the 1970's and 80's by the U.S. Fish and Wildlife Service for use as habitat analysis and are not accepted as confirmation for the presence/absence of wetlands on a parcel. These maps may be helpful for indicating where wetlands may occur, but the absence of a mapped wetland cannot be interpreted to mean that no wetlands exist in those areas. The USACE reiterates the request to identify wetlands that have been ground surveyed and those identified by NWI maps, or other remote sensing methods.
FA5-7	<b>Reference:</b> Page 4-59, Existing Wetland Resources, same paragraph as above, sentence beginning with "Constitution submitted a wetland delineation report to the COE as part of its application for a Section 404/10 Individual Permit on August 26, 2013." <b>Comment 7:</b> This statement is incorrect. The applicant applied for a Nationwide Permit Number 12. To our knowledge, no permit pertaining to Section 10 of the Rivers and Harbors Act will be impacted by this project. The USACE requests that this sentence be rewritten as follows:  <p style="text-align: center;"><b>"As part of its application for a Department of the Army Nationwide Permit Number 12, Constitution submitted a wetland delineation report to the COE on August 26, 2013, requesting jurisdictional determination of the waterbodies and wetlands identified within the project right-of-way."</b></p> <p>Further, all references in the Final EIS to Section 404/10 Individual Permit should be revised to reflect that the application requested authorization under Nationwide Permit Number 12 and eliminate references to Section 10.</p>
FA5-8	<b>Reference:</b> Page 4-59, Existing Wetland Resources, same paragraph as above, the sentence that begins, "A total of 91.8 acres of wetlands would be either crossed by Constitution's project....." <b>Comment 8:</b> The original comment stated, "The 91.8 acre figure is from the November 2013 supplemental filing to FERC. In figures supplied to the USACE (Wetland Mitigation Plan dated November 2013, Table 3-1), these figures are noticeably higher. The total estimated acres impacted for construction in PA and NY totals 128.35 acres and 24.54 acres affected for operation. The USACE recommended that Constitution provide updated numbers prior to the end of the DEIS comment period." The USACE reiterates that Constitution provides updated numbers for inclusion in the Final EIS.
FA5-9	<b>Reference:</b> Page 4-60, first full paragraph, last sentence currently reads, "A full list of access roads and their impacts is provided in Appendix E." <b>Comment 9:</b> The original comment stated, "Constitution's siting of access roads is ongoing. Their Section 404 permit application submitted on December 4, 2013 states, 'Constitution continues to evaluate the need and location for access roads and will preferably select access roads where they will avoid wetland crossings, however, this will not always be feasible.' The USACE recommended that an updated list of impacts be submitted prior to the end of the DEIS comment

FA5-7 The final EIS has been edited as requested.

FA5-8 See the response to comment FA5-5.

FA5-9 See the response to comment FA5-5. The latest information filed with the FERC was used in preparation of the EIS. See the response to comment FA4-26 concerning waterbodies and wetlands in relation to proposed permanent fill at access roads.

S-65



# FEDERAL AGENCIES

## FA5 – United States Army Corps of Engineers (cont'd)

-4-

FA5-9  
cont'd

period. The USACE reiterates the request that an updated list of access roads and associated impacts be submitted for inclusion in the Final EIS. Further, the above comment should be corrected to read, "the information contained in Constitution's supplemental permit information dated December 4, 2013 states...."

FA5-10

**Reference:** Page 4-61, Wetland Construction Procedures, first paragraph refers to a total of 91.8 acres of wetlands impacted by the project.  
**Comment 10:** Comment 8.

FA5-11

**Reference:** Page 4-62, General Impacts and Mitigation, first paragraph and Table 4.4.3-1.  
**Comment 11:** See Comment 8.

FA5-12

**Reference:** Page 4-65, last paragraph, sentence that currently reads, "Constitution proposes to restore wetlands with seed and mulch based upon specifications of the PADEP, the NYSDEC, and/or other applicable agencies."  
**Comment 12:** The USACE requested that the USACE be included with the identified agencies so that the sentence reads, "...specifications of the PADEP, NYSDEC, COE, and/or...". The USACE reiterates the request to be included in the identified agencies.

FA5-13

**Reference:** Page 4-66, Compensatory Mitigation, first paragraph currently reads, "Constitution provided a conceptual wetland mitigation plan as part of its applications for Section 404/10 Individual Permits to the COE, the PADEP, and the NYSDEC in August 2013."  
**Comment 13:** See Comment 7.

We appreciate the opportunity to resubmit comments pertaining to the DEIS. Questions pertaining to this matter should be directed to Kevin Bruce at 518-266-6358, in writing to the U.S. Army Corps of Engineers, Upstate Regulatory Field Office, 1 Buffington Street, Building 10, 3<sup>rd</sup> Floor North, Watervliet, New York 12189-4000, or by e-mail at: [kevin.j.bruce@usace.army.mil](mailto:kevin.j.bruce@usace.army.mil).

Sincerely,



Amy L. Gitchell  
Chief, Upstate New York Section

cc: Kevin Bowman, FERC  
Jodi McDonald, CENAN-OP-R  
George Casey, CENAN-OP-R  
Judy Robinson, CELRB-Auburn (LRB-2012-00746)

FA5-10 See the response to FA5-5.

FA5-11 See the response to FA5-5.

FA5-12 Section 4.4.4 of the EIS has been revised as requested.

FA5-13 Section 4.4.5 of the EIS has been revised as requested.

99-S

**FEDERAL AGENCIES**


**FA5 – United States Army Corps of Engineers (cont’d)**

FA5-13  
cont'd

Mike Dombroski, CENAB-OP-RPA (2012-977-P12)  
Wade Chandler, CENAB-OP-RPA  
Steve Metivier, CELRB  
Diane Koslowski, CELRB  
James Haggerty, CENAD  
Stephen Tomasik, NYSDEC  
Greg Hufnagel, AECOM  
Tim Sullivan, USFWS  
John Cantilli, EPA  
Lynda Schubring, Williams/Constitution Pipeline Company, LLC

**FEDERAL AGENCIES**  
**FA6 – United States Environmental Protection Agency**

20140409 0120 PERC EDC (CONSOLIDATED) 4/9/2014 1100100 EN



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

APR 09 2014

This comment has been submitted twice by the same Federal Agency (4-9-14 and 4-14-14)

Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First St. NE, Room 1A  
Washington, D.C. 20426

Reference Docket Nos. CP13-499; CP13-502-000; PF12-9-000

Dear Ms. Salas:

FA6-1 The U.S. Environmental Protection Agency has reviewed the draft environmental impact statement (DEIS) for the Constitution Pipeline and Wright Interconnect Projects (CEQ # 20140039). The proposed pipeline would be located from Susquehanna County, Pennsylvania to the existing Tennessee Gas Pipeline Company and Iroquois systems in Schoharie County, New York. The proposed compressor station would be located at the existing Wright Compressor Station in Schoharie County, New York. This review was conducted in accordance with Section 309 of the Clean Air Act, and the National Environmental Policy Act (NEPA).

The Constitution Pipeline project entails the construction and operation of 124.4 miles of new 30-inch-diameter natural gas pipeline and associated equipment and facilities in Pennsylvania and New York. Constitution also proposed to construct and operate two new metering and regulating (M&R) stations; two tie-ins, and 11 mainline valves; and would install a pig launcher and a pig receiver at the M&R stations. The Wright Interconnect Project would involve the construction and operation of new compressor facilities adjacent to as well as modifications to Iroquois' existing Wright Compressor Station. Iroquois' proposed expansion would be constructed completely within the property boundaries of the existing Wright Compressor Station. The proposed pipeline and interconnect projects would deliver up to 650,000 dekatherms per day (Dth/d) of natural gas supply from Susquehanna County, Pennsylvania ultimately to markets in New York and New England.

EPA has rated the DEIS EC-2 Environmental Concerns, Insufficient Information (see attached sheet) primarily due to the incomplete discussion of a collocated alternative on Route 1-88, and lack of an upland forest plan, direct impacts from access roads to wetlands, slope stability analysis, indirect impacts from local sales of natural gas, and an incomplete general conformity applicability analysis. Our detailed comments are enclosed.

FA6-2 EPA does note Constitution's access to 24 percent (approximately 30 miles) of the project area has been denied. Therefore, the impacts reported in the DEIS may be higher than reported for many resources. This lack of information may necessitate supplements as this information becomes available.

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 50% Postconsumer content)

FA6-1 The commentator's statement regarding the draft EIS is noted.

FA6-2 See the response to comment FA4-3.

**FEDERAL AGENCIES**

**FA6 – United States Environmental Protection Agency (cont’d)**

FA6-2  
cont'd

Thank you for the opportunity to comment. If you have any questions regarding this review, please contact Lingard Knutson of my staff at (212) 637-3747.

Sincerely,



Judy-Ann Mitchell, Chief  
Sustainability and Multimedia Programs Branch

Enclosures

# FEDERAL AGENCIES

## FA6 – United States Environmental Protection Agency (cont'd)

EPA's Technical Comments on the FERC's Draft Environmental Impact Statement  
 "Constitution Pipeline and Wright Interconnect Projects, February 2013"  
 April 7, 2014

### FA6-3 Alternatives Analysis:

Section 3.4.1.2 discusses Alternative M, a route that would collocate the pipeline along I-88. EPA is concerned that collocating the pipeline along I-88 has not been fully evaluated. A meeting with New York State Department of Transportation (NYSDOT) is discussed, but no meeting minutes, or letter from NYSDOT is included in the DEIS identifying limitations on collocation. In fact, both NYSDOT and Federal Highways Administration (FHWA) have policies and regulations in place to work with applicants on collocation issues. EPA is not aware of a provision in the transportation regulations for locating a natural gas pipeline along an interstate highway only when no other feasible alternative exists. EPA recommends that FERC, Constitution, NYSDOT, FHWA, and the federal and state resource agencies meet to discuss this alternative fully.

Because of the importance of Alternative M in the possible avoidance of several environmental impacts, EPA recommends that maps of this alternative be made more clear, and delineate the relationship of the pipeline route to I-88 in more detail. It would be helpful if all the maps in the document identified roads to make it easier for the public to identify where the pipeline route is proposed.

FA6-4 "Environmental Hazards" is used several times in tables throughout the alternatives section. This should be defined.

FA6-5 Section 3.4.3.3 discusses minor route variations assessed for impacts on agricultural lands. All minor routes should have been included in the DEIS for review by the public and resource agencies.

### FA6-6 Geology and Soils:

In the Executive Summary and Section 4, a Karst Mitigation Plan is mentioned. However, it is not available for review as part of the DEIS. Without it, the public and agencies are unable to ascertain whether Constitution's Karst Mitigation Plan will be protective of the environment. EPA also recommends that the environmental construction plan be available for review as part of the EIS or on FERC's website.

The formal slope stability analysis was not included in the DEIS. While FERC recommends that the analysis be completed prior to the completion of the Final EIS, this negates the ability of agency specialists and the public to review the analysis and comment on it. EPA concurs with comments by the United States Geological Survey that there is a need for better means to determine landslide susceptibility in the steep slope areas besides relying on ground inspections.

FA6-3 Section 3.4.1.2 of the EIS regarding alternative M has been revised. Figure 3.4.1-2 has been revised to include several area roadways. Where appropriate and possible, roadways have been added to mapping within the EIS.

FA6-4 The tables in section 3.4 of the EIS have been revised to define the term "Environmental Hazards." Environmental Hazards refers to government regulated cleanup facilities, such as hazardous waste sites (i.e., potentially contaminated sites).

FA6-5 As stated in section 3.4.3.3 of the EIS, a table including the minor route variations considered in the draft EIS were provided in appendix H (H-1, H-2, H-3, and H-4).

FA6-6 As stated in section 2.3 of the EIS, Constitution's Environmental Construction Plans (including its Karst Mitigation Plan) can be found at [http://elibrary.ferc.gov/0/idmws/file\\_list.asp?document\\_id=14160901](http://elibrary.ferc.gov/0/idmws/file_list.asp?document_id=14160901). Any information submitted as required prior to the end of the draft EIS comment period was incorporated into this final EIS. See the response to comment FA1-1. Constitution must file any information we requested on our e-Library system and would be available to the public, prior to construction. Therefore, all information would be made available for review. See the response to comment FA4-55 regarding the U. S. Geological Survey comments and landslide susceptibility.

# FEDERAL AGENCIES

## FA6 – United States Environmental Protection Agency (cont'd)

S-71

FA6-6 cont'd	<p>LIDAR imagery, tree structure and other means should be considered for finding old landslide scarps, scars, and slope failure areas.</p> <p>Any site specific blasting plans should be included in the DEIS. EPA is very concerned that any blasting may change hydrology in the immediate area, which may impact wetlands.</p>
FA6-7	<p><b>Water:</b></p> <p>The DEIS did not include any impacts on water bodies that may be caused by the construction and operation of workspaces. FERC has recommended that Constitution file a description of impacts and any proposed impact avoidance, minimization and mitigation measures for each waterbody that might be impacted by workspace construction. EPA reiterates that all reasonably foreseeable direct and cumulative impacts should be included in the DEIS, allowing them to be reviewed by the public and agencies.</p> <p>Section 4.3.1.5 discusses the location of water supply wells and springs; however, Constitution has not completed locating all water wells and springs within 150 feet of the pipeline. Landowners and the state agencies should be apprised of this information within the DEIS.</p> <p>Table 4.3.1-2 states that two water wells are within the boundaries of contractor yards. Specific best management practices and mitigation plans to protect those wells should be included in the DEIS.</p> <p>Section 4.3.1.5 (Water Use and Quality) states that Constitution has agreed to provide expert field assessment of seeps and springs within 150 feet of construction workplaces to determine if construction activities could have an impact on the seeps and/or springs. This information should be in the DEIS and include whether the seeps or springs are part of a wetlands complex, and whether changes in flow rate or direction would impact wetlands.</p>
FA6-8	<p><b>Wetlands:</b></p> <p>Constitution proposed to temporarily fill one wetland and permanently fill 13 wetlands (approximately 0.3 acre) for the purpose of constructing access roads. Neither the site specific plans for, nor the purpose of this action, was included in the DEIS.</p> <p>Section 4.4.4 states that temporarily disturbed emergent and scrub-shrub wetland will be restored by seeding and mulching. Constitution should consider planting shrub saplings in scrub-shrub areas.</p> <p>Section 4.4.5 states that offsite wetland mitigation is proposed to compensate for temporary impacts to forested wetland and for permanent impacts to forested and scrub-shrub. Mitigation will be a mixture of in-lieu fee credits and permittee-responsible mitigation. Constitution should consider restoring temporarily cleared forested wetland areas in the right-of-way by planting tree and shrub saplings.</p>

FA6-7

See the response to FA4-23 regarding pending information. Information was provided in the draft EIS regarding waterbodies that would not be crossed by the pipeline but that would be affected by workspaces, as discussed in section 4.3.3.5 and as listed in appendix K. Further, we have updated section 4.3 of the EIS to reflect new information regarding these workspaces provided by Constitution in response to draft EIS recommendation number 22. Table 4.3.1-2 has been revised to reflect updated information regarding water wells. One of the water wells was within the boundary of the Spread 4b contractor yard; however, Constitution has removed this contractor yard from its proposal. Water wells within the proposed contractor yard(s) would be protected with the same measures as those wells within the pipeline right-of-way. The commentor's statement regarding seeps is noted. The draft EIS contains the latest information regarding springs, seeps, and wetlands available from the Applicants. Typically, the location of springs and seeps would be confirmed as all of the field surveys are completed following issuance of a certificate (if granted), which is not the case currently as discussed in the response to comment FA4-3. At that time, following certificate issuance but before the start of construction, possible relationships between springs, seeps, and wetlands within the survey corridor would be evaluated.

FA6-8

See the response to comment FA4-26 regarding permanent fill of wetlands. The commentor's suggestion to plant saplings as mitigation is noted. The FERC Procedures do not require the planting of saplings in scrub-shrub and forested wetland areas; however, wetland restoration would be conducted in accordance with the COE's permit requirements. Additionally, restoration of impacted wetlands would not be considered complete until they are 80 percent revegetated with early successional wetland species representative of what was in the right-of-way prior to construction or in adjacent wetland areas. See the response to comment FA6-4 regarding pending information. Section 4.4.1.3 has been revised with Constitution's updated survey information for contractor yard(s).



# FEDERAL AGENCIES

## FA6 – United States Environmental Protection Agency (cont'd)

S-72

FA6-8 cont'd	Section 4.4.1.4 discusses that Constitution has not completed wetlands surveys for three contractor yards. While Constitution states that it will avoid any wetlands within or adjacent to the yards, the wetland delineations and identifications should have been included in the DEIS, along with avoidance or mitigation plans.
FA6-9	<p><b>Wildlife and Vegetation:</b></p> <p>It is EPA's understanding that the Endangered Species Act (ESA) surveys nor the consultation with the Fish and Wildlife Service (FWS) is complete. Discussions concerning surveys for the Northern Long-Eared Bat (<i>Myotis septentrionalis</i>) a candidate species for ESA listing, the bald eagle mitigation plan and the Upland Forest Mitigation Plan have not been finalized. The survey information, and more importantly, the Upland Forest Mitigation Plan should be included in the DEIS for review by the public and agencies. Without a mitigation plan, EPA is unable to assess the true direct impacts to trees from the proposed pipeline. EPA also recommends that FERC verify with FWS that fringe forest habitat is equivalent to interior forest habitat, as assumed in the DEIS.</p> <p>It also appears that Constitution has not submitted "the remaining surveys for state-listed species that may be present in the pipeline project workspaces." Any surveys for state-listed species should have been included in the DEIS for public and agency review of impacts to wildlife.</p>
FA6-10	<p>The project will incur impacts on 439.7 acres of interior forest during construction, and 217.9 acres during operations. While FERC and Constitution appear to believe that interior forest is equivalent to fringe forest (as will be created by the pipeline easement) in terms of habitat to migratory birds and raptors, this assumption should be verified for this project, and a Habitat Equivalency Analysis (HEA) be completed for the loss of interior forest to migratory birds, bats and raptors. This could be a similar effort to the HEA for Mitigation of the Gateway West Transmission Line prepared by the Bureau of Land Management in June 2012. Forest fragmentation by both interstate and intrastate pipeline and other energy production facilities is increasing in the New York/Pennsylvania area (as evidenced by the list of pipeline projects near the proposed Constitution Pipeline in Table 4.13-1) and those cumulative impacts should be analyzed as well.</p> <p>Pipeline easements through interior forests will also encourage the spread of invasive plant species into those areas. While Section 2.5.5 states that Constitution would perform monitoring for invasive plant species on at least an annual basis for three years following construction, the invasive plants will not stop germinating after three years. Continual mowing of the easement will keep the area disturbed encouraging the growth of invasives. FERC should require continuous invasive plant monitoring and removal for the life of the pipeline, or as long as the easement is present. Constitution should also be required to replant young native trees with a 4" diameter along the sides of the easement to slow invasive species growth and replenish trees taken down for construction purposes.</p>
FA6-11	Section 4.5.1 states that Constitution should file a description of its proposed access roads leading to the two proposed meter stations prior to the end of the DEIS comment period. This information should have been included in the DEIS.

FA6-9

See the response to comment FA4-3 regarding pending information. See also the responses to comments FA4-37 (endangered species status), FA4-30 (upland forest mitigation plan), and FA4-35 (state-listed rare species). We note that the upland forest mitigation plan, which is being developed with input from the agencies including the FWS, includes consideration of different types of forest habitats (and associated relative value of different forested habitats) including interior forest (which provides habitats of particular importance to certain species and which typically takes decades to grow and mature) and forest edge (which is rather common in the environment and which can be created rapidly by clearing).

FA6-10

See the response to comment FA6-9 regarding the relative value of different forested habitats and the upland forest mitigation plan. Section 4.5 of the EIS has been revised to include additional discussion of forest impacts, including interior forests and invasive species and our recommendation regarding long-term monitoring for invasive plant species. The comment regarding the recommended planting of saplings in temporary workspaces is noted. However, because the permanent right-of-way would be maintained in an herbaceous state by periodic mowing, the planting of saplings in adjacent areas would have limited or no effect on preventing the spread of invasive plants. Based on our experience with restoration, we conclude that the replanting of trees in formerly disturbed areas would not significantly enhance or expedite the return of forest habitat. Typically, in areas with adequate rainfall and stable soils, tree saplings readily colonize disturbed areas within 2 or 3 growing seasons.

FA6-11

See the response to comments FA1-1 and FA4-3 regarding pending information. Section 4.5.1 of the EIS has been revised to provide information regarding the access roads for the proposed meter stations.

# FEDERAL AGENCIES

## FA6 – United States Environmental Protection Agency (cont'd)

S-73

FA6-12	In Section 4.8.4.3, FERC should verify with the New York State Department of Environmental Conservation that tracts enrolled in various conservation programs will not be penalized by the construction of the Constitution pipeline through those lands.
FA6-13	EPA is also concerned that the loss of trees and intact forests will exacerbate climate change due to the loss of carbon sink.
FA6-14	<p><b>Air:</b></p> <p>The General Conformity applicability analysis (Table 4.11.1-4) indicates NOx emissions just below the threshold level, however, there is no supporting documentation in the DEIS to determine how those emission levels were derived.</p> <p>The calendar year(s) covered in Table 4.11.1-4 for the construction emissions should be clarified. General conformity is determined on a calendar year basis.</p> <p>Supporting calculations and documentation should be provided to show how the NOx and VOC emissions from construction in the general conformity applicability analysis were determined.</p> <p>EPA recommends that construction emission mitigation options include the elimination of unnecessary idling at job sites and a commitment to use the cleanest available equipment, such as those meeting EPA's Tier 3 or Tier 4 nonroad emission standards.</p>
FA6-15	<p><b>Cumulative Impacts:</b></p> <p>The DEIS states that besides executing binding precedent agreements for the entire proposed 650,000 Dth/d, Constitution has also entered into a Memorandum of Understanding with Leatherstocking Gas Company, LLC to allow Leatherstocking to interconnect with the proposed pipeline and deliver gas to homes and businesses within communities in Pennsylvania and New York. Leatherstocking would construct the necessary infrastructure. The document states "because the specifics of this infrastructure are unknown, impacts are discussed in a general sense where applicable below." However, the impacts are never mentioned again. Any construction or distribution of natural gas by Leatherstocking is an indirect effect of the Constitution pipeline, and any reasonably foreseeable impacts should be analyzed. This should include, but not be limited to, impacts to waterbodies, wetlands, land use, and housing growth.</p> <p><b>General:</b></p>
FA6-16	Section 2.2.1.3 states that "additional extra workspaces beyond those currently identified could be required during construction of the pipeline". We find it unsettling that Constitution, a partnering of Williams, a leading energy infrastructure company; Cabot Oil & Gas; Piedmont Natural Gas; and WGL Holdings, does not know what workspaces they will need to construct the proposed pipeline. All areas used for construction of this pipeline should be determined, analyzed for environmental impacts, and included in the DEIS.

FA6-12

As stated in section 4.8.4.3 of the EIS, based on the NYSDEC regulation Title 6 New York Codes, Rules and Regulations Part 199, Constitution does not believe that the tracts enrolled in the programs discussed would be subject to fees or penalties as a result of the pipeline right-of-way or easement. However, in the event that fees or penalties were incurred, Constitution agreed to include compensation in its easement negotiations with landowners.

FA6-13

Climate change is discussed in section 4.13.6.10 of the EIS. Approximately 54 percent of the upland forest removed during construction would be allowed to regrow over the long-term during operation. In addition, Constitution's upland forest mitigation plan would result in the preservation of other forested areas, which could be at risk, as compensation for its impacts upon forest lands. Collectively, these measures would mitigate potential impacts on climate change resulting from the loss of carbon sinks.

FA6-14

Emissions levels and supporting calculations used in the General Conformity applicability analysis were provided by Constitution as part of its November 2013 supplemental filing at [http://elibrary.ferc.gov:0/idmws/file\\_list.asp?document\\_id=14160901](http://elibrary.ferc.gov:0/idmws/file_list.asp?document_id=14160901) see "Vol.-I RR 09." The estimates and supporting information were updated in response to draft EIS recommendation No. 45 in Constitution's filing dated April 7, 2014 and which can be found at: [http://elibrary.ferc.gov:0/idmws/file\\_list.asp?document\\_id=14202518](http://elibrary.ferc.gov:0/idmws/file_list.asp?document_id=14202518) Constitution proposed that construction would start in the second or third quarter of 2014 and be complete by March 2015, with a construction plus restoration period of 8 months. Therefore, emissions could occur in both calendar years 2014 and 2015. Given the scheduling realities of the NEPA review, issuance of a certificate (if granted), obtaining access to all parcels, and additional field survey and permitting, we assume that any construction likely would not begin until 2015. As stated in section 4.11.1.1.3 of the EIS, emissions resulting from diesel- and gasoline-fueled construction equipment and vehicle engines for both projects would be minimized by federal design standards required at the time of manufacture of the equipment and vehicles, and would comply with the EPA's mobile and non-road emission regulations found in 40 CFR Parts 85, 86, and 89.



**FEDERAL AGENCIES**

**FA6 – United States Environmental Protection Agency (cont’d)**

- FA6-15

All information publicly available at the time of the issuance of the draft EIS regarding the Leatherstocking proposal was included. Subsequent to the issuance of the draft EIS, some additional information regarding the Leatherstocking proposal became available. Sections 1.1 and 4.13 of the EIS have been revised to include this information. See the response to comment FA4-46.
- FA6-16

The commentor’s statement regarding extra workspaces is noted. It is common for construction crews to encounter unanticipated environmental conditions or features during construction of large diameter, major natural gas pipelines that could require additional extra workspaces for proper or safe installation. Therefore, the EIS acknowledges that additional space may be necessary, and discloses the Commission’s process for evaluating supplemental workspace requests (variances). It is also possible that minor shifts in alignment or other minor adjustments to construction would not require additional workspaces.

# FEDERAL AGENCIES

## FA6 – United States Environmental Protection Agency (cont'd)

- FA6-17

Section 3.1.2.3 should be updated to include that in January 2013, the Bureau of Ocean Energy Management issued a request to determine whether there is competitive interest in leasing an area offshore New York that the New York Power Authority has proposed for developing offshore wind energy.
- FA6-18

Section 4.2.3.3 and Table 4.2.3-1 state that 34.8 acres of prime farmland or farmland of statewide importance will be permanently impacted by access roads, however, Table 4.2.2-2 appears to indicate that only 22.8 acres will be permanently impacted. Explain this discrepancy.

FA6-17      Section 3.1 has been revised to include information regarding New York Power Authority’s offshore wind proposal.

FA6-18      The data presented in draft EIS table 4.2.3-1 included redundant information where access roads overlapped with construction workspaces potentially resulting in apparent data discrepancies between tables. For these reasons, the data in tables 4.2.2-2 and 4.2.3-1 may not match and we have added a footnote to table 4.2.3-1 providing clarification.

# FEDERAL AGENCIES

## FA6 – United States Environmental Protection Agency (cont'd)

S-76

FA6-19

### LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

### EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

### EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

### EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommend for referral to the Council on Environmental Quality (CEQ).

### Adequacy of the Impact Statement

#### Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

#### Category 2-Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

#### Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analysis, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From: EPA Manual 1640, † Policy and Procedures for the Review of Federal Actions Impacting the Environment. U

FA6-19

Please see the response to comment FA6-1.

# FEDERAL AGENCIES

FA7 – Congress of the United States House of Representatives – Chris Gibson

**CHRIS GIBSON**  
19th District, New York  
1708 Longworth Building  
Washington, DC 20515  
(202) 225-5614  
<http://gibson.house.gov>

**ASSOCIATED PUBLIC FILE**

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515

**CP13-502**  
**HOUSE AGRICULTURE COMMITTEE**  
Subcommittee on General Farm  
Commodities and Risk Management  
Subcommittee on Livestock,  
Rural Development, and Credit

**HOUSE ARMED SERVICES COMMITTEE**  
Subcommittee on Tactical Air and  
Land Forces  
Subcommittee on Intelligence,  
Emerging Threats, and Capabilities  
Subcommittee on Military Personnel

April 4, 2014

Kimberly D. Bose secretary  
Federal energy Regulatory Commission  
888 First Street, NE Room 1A  
Washington, DC 20426

Dear Ms. Bose:

FA7-1 I write to you on behalf of my constituent, Kenneth Stanton III, who will be affected by the proposed Constitution Pipeline. Kenneth is the owner/operator of a dairy farm, which operates under the New York State Department of Environmental Conservation CAFP permit. The impacts the pipeline will have on the farm will be detrimental to this designation.

FA7-2 As I travel across Upstate New York, families, farmers and small business owners in my District often cite high energy costs as one of their largest impediments to growth. I applaud the work that you are doing to address this issue by increasing American-made energy and subsequently lowering energy costs for all Americans. At the same time, I want to express how imperative it is that the health and safety of surrounding areas be considered a priority during planning and execution of this pipeline. I am concerned that the property rights of homeowners, business owners and farmers may be infringed upon. The proposed Alternate Route O will infringe upon this farm's land but will also have a vast impact on the programs the Stanton Family Farms LLC presently participate in.

FA7-3 Attached to this letter is correspondence I have received from Mr. Stanton who will be affected by the proposed pipeline. As you can see in his letter currently the pipeline path is set to run over the land that he runs his farm on. I have also enclosed letters Ken has forwarded from NYS DEC and Farm Credit East stating the need for compliance with their policies. As you continue your careful review of the proposed route and make recommendations for the project going forward, I ask that you bear in mind the significant impact this project could have on residents' homes, businesses, and day-to-day lives, especially the life and livelihood of Kenneth Stanton, III.

Please keep me updated of any developments on this project.

Thank you.

Sincerely,  
*CPA*  
Chris Gibson  
Member of Congress

**FILED**  
**SECRETARY OF THE**  
**COMMISSION**  
2014 APR 14 A 10 05  
FEDERAL ENERGY  
REGULATORY COMMISSION

**APR 15, 2014**  
**OFFICE OF**  
**EXTERNAL AFFAIRS**  
2014 APR 15 A 9 46  
FEDERAL ENERGY  
REGULATORY COMMISSION

2014-00066

- FA7-1 The Stanton property was the subject of a recommendation in the draft EIS requiring Constitution to evaluate measures that would avoid, minimize, or mitigate impacts on the subject property. Safety of the proposed projects is discussed in section 4.12 of the EIS.
- FA7-2 Property rights are discussed in section 4.8.2. See our response to comment FA8-3 regarding eminent domain.
- FA7-3 Section 3.4.3 of the EIS has been revised with new information regarding the Stanton property and our assessment of potential impact avoidance, minimization, and mitigation measures. FERC Chairman LaFleur responded to Congressman Chris Gibson's letter on May 6, 2014.

Federal Agency Comments

# FEDERAL AGENCIES

FA7 – Congress of the United States House of Representatives – Chris Gibson (cont'd)

FA7-3  
cont'd

Kenneth R. Stanton III  
3271 St Rt 145  
Lehman, N.Y. 12157  
March 25, 2013

Congressman Chris Gibson  
P.O. Box 775  
Kinderhook, N.Y. 12106

Attn: Ann Miller

This is information that we talked about on the phone on March 25 about the Constitution pipeline crossing my farm. I am sending information that we have sent to FERC in the past and present regarding our reasoning to move the pipeline.

- 1) There will be a letter from me to FERC
- 2) A map of my farm base of our proposal outlined in black.
- 3) A letter from our CAFO planner to FERC dated April 13, 2013.
- 4) A letter from our CAFO planner dated March 10, 2014.
- 5) A map of my daughter's home with pipelines close to it.
- 6) A NYS DEC CAFO annual report

We would appreciate any help you can give us to have this pipeline moved off our base of business

Sincerely  
Kenneth R. Stanton

FILED  
SECRETARY OF THE  
COMMISSION  
IN APR 14 A.D. 2013  
FEDERAL ENERGY  
REGULATORY COMMISSION

# FEDERAL AGENCIES

FA7 – Congress of the United States House of Representatives – Chris Gibson (cont'd)

FA7-3  
cont'd

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A  
Washington, DC 20426

FILED  
SECRETARY OF THE  
COMMISSION  
MAY 14 10 01  
FEDERAL ENERGY  
REGULATORY COMMISSION

May 22, 2013

Dear Ms. Bose,

As the founder and president of Stanton Family Farms, LLC, I am writing this letter to inform you that I **strongly object** to Constitution Pipeline constructing a natural gas pipeline through parts of Pennsylvania and New York. This proposed pipeline, currently Alternate Route O, will run through Historic Schoharie County, including my family farm. The FERC document number for this project is PF 12-9-000.

I purchased the land and several buildings, including my residence, that make up the base of the family farm that will be affected by this pipeline in 1962. This is truly a family owned and operated farm. We are currently an LLC with five members that include my wife, two children, a daughter in law and me. In addition we employ two other family members. We have a plan in place for the next generation on the farm as well. Agriculture has been a struggle that some can compare to a roller coaster ride for the last fifty years. Throughout that time, I have managed to build a strong, healthy business that continues to grow. I have done this with the help of family, friends, and neighbors as well as hard work and sheer determination. The gross income the farm generates not only provides the salaries of nine employees but is redistributed throughout Schoharie County and New York State. There are many businesses such as farm supply stores, feed companies, accountants, tire dealerships, farm equipment dealers, office supply stores, etc that would be directly affected if I was to go out of business today. If this pipeline is allowed to proceed, that is a very real possibility. It could put me out of business.

Some may think that I am exaggerating with a statement so passionate as declaring being put out of business. However, due to the size of my dairy farm, I am accountable to many rules and regulations monitored by several governmental agencies. For example, I am part of an agricultural district that places restrictions on land use. The farm operates under New York State Department of Environmental Conservation CAFP permit. Under this permit, we are required to have a nutrient management plan based on standards set by the Natural Resource Conservation Service. This plan defines, where and when we can spread manure. The pipeline will disrupt 16 acres of pasture resulting in a relocation of animals, currently not part of the permit, and increased feed costs due to loss of pasture feed. The pipeline will also disrupt 130 acres of production

# FEDERAL AGENCIES

FA7 – Congress of the United States House of Representatives – Chris Gibson (cont'd)

S-80

FA7-3  
cont'd

for approximately two years. This disruption will force us into non-compliance of our CAFO permit as we are already tight on acreage to spread manure. Any noncompliance is a direct violation of Environmental Conservation Law and is grounds for enforcement action of up to \$37,500 per day. It will also cause a domino effect on crop rotation for many years to come as we will need to change the crops in other fields to compensate for the loss of acreage. This will result in noncompliance with both our NYS DEC CAFO permit and our Food Security Act plan developed by NRCS. It will also require us to purchase additional feed and ship approximately 500,000 gallons of manure to other farms at a significant expense.

This pipeline would be devastating to my immediate family, my children's families, as well as my employee's families. This will not only cause a loss of wages, but a loss of a life style – the only lifestyle many of us have ever known. In addition it will cause a great deal of stress and large amounts of mental anguish.

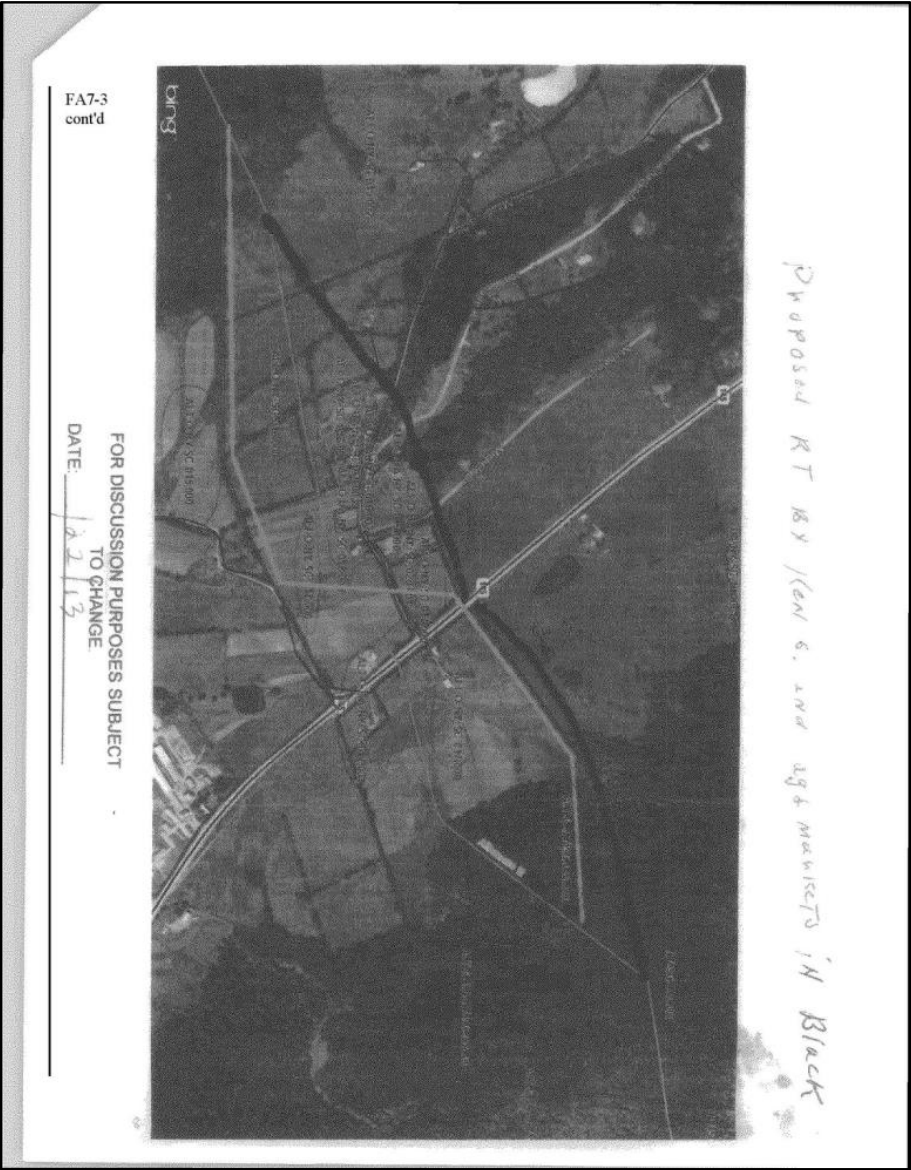
As the primary owner, founder, and president of Stanton Family Farms, I strongly object to the Constitution Pipeline Alternate Route O. I served in the US Marine Corps to defend and protect our country. I thought that this was America, the land of opportunity. This pipeline will take away my opportunity. Stop this process immediately!

Respectfully submitted,

Kenneth G. Stanton, III

FEDERAL AGENCIES

FA7 – Congress of the United States House of Representatives – Chris Gibson (cont’d)





S-82

FA7-3  
cont'd

Residential Construction Plan  
ALT-Q-UA-NY-SC-017.001 – MP 115.3

Appendix O-5

Date February 2014

PObcd

# FEDERAL AGENCIES

FA7 – Congress of the United States House of Representatives – Chris Gibson (cont'd)

FA7-3  
cont'd

## New York State Department of Environmental Conservation

### Division of Water

Bureau of Water Permits, 4<sup>th</sup> Floor  
625 Broadway, Albany, New York 12233-3505  
Phone: (518) 402-8111 • FAX: (518) 402-9029  
Website: www.dec.state.ny.us



#### Concentrated Animal Feeding Operation (CAFO) Annual Compliance Report

GENERAL PERMIT (GP-0-09-001)  
State Pollutant Discharge Elimination System (SPDES)  
Concentrated Animal Feeding Operations (CAFOs)

Every permitted CAFO facility must submit two (2) copies of this report to the Department for the calendar year by March 31<sup>st</sup> of each year, one (1) to the above address with an original signature and one (1) copy to the DEC Regional Water Engineer (Contact list attached). Electronic, incomplete, faxed and/or illegible forms will not be accepted. The permittee shall utilize this form to report all other instances of non-compliance with permit conditions not otherwise required to be reported through the Incident Report Form. A copy of the Incident Report form is required to be submitted with this Annual Report.

Pursuant to 6 NYCRR Part 750-1.22(s) the information submitted in this report is not confidential and will not be treated as such.

#### SECTION I: FACILITY INFORMATION

Report for Calendar Year: 2013  
DEC Authorization No: 4-43-99-024  
DEC SPDES No: NYA-006198  
Owner/Operator Name: Ken/Richard/Lisa/Linda/Joanita Stanton  
Facility Name: Stanton Family Farm LLC

# FEDERAL AGENCIES

FA7 – Congress of the United States House of Representatives – Chris Gibson (cont'd)

FA7-3  
cont'd

If yes, has your CNMP been amended to address these circumstances? \_\_\_\_ Yes \_\_\_\_ No

If no, please explain.

---

---

---

---

---

3. During the last 12 months have you made any changes to your CNMP? \_\_\_\_ Yes ☒ No

If yes, were these changes made under the direction of an AEM Certified Planner? \_\_\_\_ Yes \_\_\_\_ No

4. During the last 12 months were changes made to the planned manure, litter or process wastewater applications?  
\_\_\_\_ Yes ☒ No

If yes, were these changes made with *prior* approval from an AEM Certified Planner? \_\_\_\_ Yes \_\_\_\_ No

If no, please attach an explanation.

5. During the last 12 months were changes made to the planned crop rotations? \_\_\_\_ Yes ☒ No

If yes, were these changes made with *prior* approval from an AEM Certified Planner? \_\_\_\_ Yes \_\_\_\_ No

If no, please attach an explanation.

6. FOR LARGE CAFOs. During the last 12 months were changes made from the previous years' Annual NMP Submittal?  
\_\_\_\_ Yes \_\_\_\_ No *N/A*

If yes, attach a description of these changes in the same format as used in the Annual NMP Submittal.

If yes, were these changes made with *prior* approval from an AEM Certified Planner? \_\_\_\_ Yes \_\_\_\_ No *N/A*

7. FOR LARGE CAFOs. Have two (2) individuals representing your facility attended a NYSDEC endorsed Manure Applicator Training? \_\_\_\_ Yes \_\_\_\_ No *N/A*

If yes, please indicate date and location of the event and the names of the individuals that attended.

---

---

---

8. Do you know or have reason to know of a discharge during the last 12 months of your CAFO's process wastewater that caused deposition of solids, substantial visual contrast or impacts to fish or otherwise violated 6 NYCRR Parts 700 to 705?  
\_\_\_\_ Yes ☒ No

If yes, please attach copies of the submitted Incident Report Form.

# FEDERAL AGENCIES

FA7 – Congress of the United States House of Representatives – Chris Gibson (cont'd)

FA7-3  
cont'd

## SECTION V: NUTRIENT IMPORTS

- Amount of nutrients (ex: manure, litter, process wastewater, food wastes, etc.) imported in the 12-month period covered by this report 0 (gallons or tons)  
(do not include commercial chemical fertilizers or lime or imported feedstocks)
- Describe the timeframe for acceptance of these substances (ex: daily, weekly, monthly)
- Is the facility registered under Part 360 of 6 NYCRR Yes ☐ No ☒  
If yes, provide the registration number \_\_\_\_\_
- Is the facility permitted under Part 360 of 6 NYCRR Yes ☐ No ☒  
If yes, provide the permit number \_\_\_\_\_

## SECTION VI: LAND APPLICATION OF MANURE, LITTER AND PROCESS WASTEWATER

Report the total number of acres of land that are covered by this facility's comprehensive nutrient management plan. Include all land application acres covered by the nutrient management plan, whether or not they were used for land application during the 12-month period covered by this report.

- Total number of land application acres covered by the nutrient management plan 1127 (acres)

Report the total number of acres of land where manure, litter, or process wastewater that was generated at this facility were spread. Include only land applications that are under the control of this CAFO facility.

- Total number of acres under the control of the CAFO used for land application in the 12-month period covered by this report 985 acres.

## SECTION VII: INSTANCES OF NONCOMPLIANCE NOT PREVIOUSLY REPORTED

- During the past 12-months has your facility been in compliance with the following recordkeeping requirements which have not already been reported to the Department:  
(if no, please attach a description of the noncompliance including the number of instances)

Records of precipitation events in excess of 0.3 inches?  
Yes ☒ No ☐

Records of weather conditions at time of application and for 24 hours prior to and following application including actual precipitation and forecasted conditions?  
Yes ☒ No ☐

Weekly inspections of depth readings for any open liquid storage structures?  
Yes ☒ No ☐

Records of handling and disposal of mortalities?  
Yes ☒ No ☐

Comments

---

---

---

---

98-5

FA7-3  
cont'd

(2) **Non-Structural Practices (group separately from other practices)** - Include all non-structural practices unless the certified planner and the owner and operator determine that a structural practice that is not scheduled to be installed is required in order for the non-structural practice to be fully operational. Information for practices for which this column is marked "yes" are to be reported on a separate line(s) from those not marked "yes".

(4) Estimated CNMP Practice Costs for yet to be implemented BMPs - The owner or operator may wish to use the NRCS guidance document entitled "Costs Associated With Development and Implementation of Comprehensive Nutrient Management Plans". The estimated CNMP practice costs will be used by the Department to determine the total costs associated with development and implementation of CNMPs in New York State.

[illegible]

Yes \_\_\_\_\_ No ✓

# FEDERAL AGENCIES

FA7 – Congress of the United States House of Representatives – Chris Gibson (cont'd)

FA7-3  
cont'd

## LIST OF NYS DEC REGIONAL WATER ENGINEER OFFICES

REGION	COVERING THE FOLLOWING COUNTIES	DIVISION OF WATER (DOW) WATER (SPDES) PROGRAM
1	Nassau and Suffolk	Bldg 40 - SUNY @ Stony Brook Stony Brook, NY 11790-2356 Tel. (631) 444-0420
2	Bronx, Kings, New York, Queens and Richmond	1 Hunters Point Plaza, 47-40 21st St. Long Island City, NY 11101-5407 Tel. (718) 482-4930
3	Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester	100 Hillside Avenue, Suite 1W White Plains, NY 10603 Tel. (914) 428-2505
4	Albany, Columbia, Delaware, Greene, Montgomery, Otsego, Rensselaer, Schenectady and Schoharie	1130 North Westcott Road Schenectady, NY 12306-2014 Tel. (518) 357-2045
5	Clinton, Essex, Franklin, Fulton, Hamilton, Saratoga, Warren and Washington	232 Golf Course Road, P.O. Box 220 Warrensburg, NY 12885-0220 Tel. (518) 623-1200
6	Herkimer, Jefferson, Lewis, Oneida and St. Lawrence	317 Washington Street Watertown, NY 13601 Tel. (315) 785-2554
7	Broome, Cayuga, Chenango, Cortland, Madison, Onondaga, Oswego, Tioga and Tompkins	615 Erie Blvd. West Syracuse, NY 13204-2400 Tel. (315) 426-7500
8	Chemung, Genesee, Livingston, Monroe, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne and Yates	6274 East Avon-Lima Rd. Avon, NY 14414-9519 Tel. (585) 226-5450
9	Allegany, Cattaraugus, Chautauqua, Erie, Niagara and Wyoming	270 Michigan Ave. Buffalo, NY 14203-2999 Tel. (716) 851-7070

# FEDERAL AGENCIES

FA7 – Congress of the United States House of Representatives – Chris Gibson (cont'd)

88-5

<b>FARM CREDIT EAST, ACA</b>		2668 State Route 7, Suite Z1, Cobleskill, NY 12043-9707
		800.327.6588 • 518.296.8188
		Fax 518.296.8187
		FarmCreditEast.com

FA7-3  
cont'd

March 17, 2014

Stanton Family Farms, LLC  
3271 State Route 145  
Schoharie, NY 12157

RE: Borrowing Covenants and Approvals

Dear Ken:

I am writing to follow up on your inquiry for your annual loan renewal and the conditions under which we are able to approve your request. Farm Credit East, ACA has processed your requested and is renewing your loans based on the following:


- Your farm is currently in compliance with DEC laws concerning the Medium CAFO status of your farm. This includes operating under an approved Nutrient Management Plan as prepared by Lisa Kuehne at Schoharie County Soil and Water Conservation District with annual submission of your CAFO Appendix D showing compliance with your CAFO plan.
- A change in your CAFO and Nutrient Management Plan adds additional risk exposure to your farm concerning environmental laws, fines, and the ability of Farm Credit East to continuing lending to your business and could jeopardize future expansions on your farm.

This letter also acknowledges that your request for a \$100,000.00 loan to build a new 200 freestall heifer barn and 75 head calf barn is hereby approved based on the above mentioned CAFO conditions. Your CAFO and Nutrient Management Plan currently show the ability of the farm to remain environmentally compliant with these new facilities and allow your business to continue to grow at the Home Farm location.

Should you have any questions, please feel free to contact me by phone at (518) 296-8188 or by email at [Thomas.Stokes@FarmCreditEast.com](mailto:Thomas.Stokes@FarmCreditEast.com).

Sincerely,

FARM CREDIT EAST, ACA

  
Thomas J. Stokes  
Loan Officer


Federal Agency Comments

# FEDERAL AGENCIES

FA8 – Congress of the United States House of Representatives – Chris Gibson

20140425-0010 FERC PDF (Unofficial) 04/23/2014

**CHRIS GIBSON**  
19th District, New York  
1708 Longworth Building  
Washington, DC 20515  
(202) 225-5614  
<http://gibson.house.gov>



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

**HOUSE AGRICULTURE COMMITTEE**  
Subcommittee on General Farm  
Commodities and Risk Management  
Subcommittee on Livestock,  
Rural Development, and Credit

**HOUSE ARMED SERVICES COMMITTEE**  
Subcommittee on Tactical Air and  
Land Forces  
Subcommittee on Intelligence,  
Emerging Threats, and Capabilities  
Subcommittee on Military Personnel

April 18, 2014

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE Room 1A  
Washington, DC 20426

To whom it may concern,


FA8-1 I write to you on behalf of my constituents who will be affected by the proposed Constitution Pipeline.

FA8-2 As I travel across Upstate New York, families, farmers and small business owners in my District often cite high energy costs as one of their largest impediments to growth. I applaud the work that you are doing to address this issue by increasing American-made energy and subsequently lowering energy costs for all Americans. At the same time, I want to express how imperative it is that the health and safety of surrounding area be considered a priority during planning and execution of this pipeline. I am concerned that the property rights of homeowners, business owners and farmers may be infringed upon.

FA8-3 Attached to this letter is correspondence I have received from my constituents who will be affected by the proposed pipeline. As you continue your careful review of the proposed route and make recommendations for the project going forward, I ask that you bear in mind the significant impact this project could have on residents' homes, businesses, and day-to-day lives.

Please keep me updated of any developments on this project.

Thank you.

Sincerely  
  
Chris Gibson  
Member of Congress

CPG:pab

FILED  
SECRETARY OF THE  
COMMISSION  
2014 APR 23 A 9 18  
FEDERAL ENERGY  
REGULATORY COMMISSION  
2014-00084

2014 APR 23 P 4:35  
RECEIVED  
FEDERAL ENERGY  
REGULATORY COMMISSION

- FA8-1 Safety of the proposed projects is discussed in section 4.12 of the EIS.
- FA8-2 Property rights are discussed in section 4.8.2 of the EIS. See our response to comment FA8-3 regarding eminent domain.
- FA8-3 Compensation for landowners that would be affected by the project is discussed in section 4.8.2 of the EIS. The FERC is not involved in easement negotiations between a pipeline company and the landowner, nor would the FERC be involved in eminent domain proceedings. A landowner is free to negotiate the terms of an easement agreement with the pipeline company. However, if such negotiations fail and the project is certificated, compensation would be determined by a court of law in eminent domain proceedings. The Commission considers the applicant's use of eminent domain in its decision on natural gas projects.



# FEDERAL AGENCIES

FA8 – Congress of the United States House of Representatives – Chris Gibson (cont'd)

20140425-0010 FERC PDF (Unofficial) 04/23/2014

627 Flax Island Rd.  
Otego, NY 13825\  
April 14, 2014

FA8-3  
cont'd

Congressman Chris Gipson  
111 Main Street  
Delhi, NY 13763

Dear Congressman Gipson:

Attached is a request that the Federal Energy Regulatory Commission (FERC) encourage an energy transmission company (Cabot Williams Constitution Pipeline) to offer more than a one-time lump sum payment to landowners along the right-of-way. For this, Cabot Williams will receive perpetual use of their land.

The “one and done” payment offer may serve the transmission company well but, for many landowners, -- not so well. They are left with the encumbrance of an eternal easement that lowers the perceived value of their homes and lands. I believe there is a better way. The companies should offer at least two options; the standard lump sum payment which serves the needs of some and a second type of offer with a rental agreement by the company. This rental could be passed along to a new owner upon sale of the property. This will provide an incentive to a buyer rather than merely an encumbrance. The transmission companies have the legal manpower to ensure their rights of continuity.

The increased options for the landowner aligns with the intent of the Fifth Amendment -- just compensation under the law. With eminent domain, the companies have all the power. Landowners are dispersed over long distances. There are relatively few of them in any one particular political district. No one speaks for them.

06-S

## FEDERAL AGENCIES

FA8 – Congress of the United States House of Representatives – Chris Gibson (cont'd)

20140425-0010 FERC PDF (Unofficial) 04/23/2014

FA8-3  
cont'd

This is a bi-partisan issue. It will become more pronounced as infrastructure (gas and electric) builds out in the near future. You will have the opportunity to bring this to the attention of your fellow Congressmen on both sides of the aisle. Equity in contractual matters is an issue on which all can and should agree

Thank you for your service to our State and your consideration of this matter.

Yours truly,



Richard Downey

Unatego Area Landowners Association

# FEDERAL AGENCIES

## FA9 – United States Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JUN 10 2014

ORIGINAL

FILED  
SECRETARY OF THE  
COMMISSION  
2014 JUN 16 A 9 21  
FEDERAL ENERGY  
REGULATORY COMMISSION

Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First St. NE, Room 1A  
Washington, D.C. 20426

Reference Docket Nos. CP13-499; CP13-502-000; PF12-9-000

Dear Ms. Salas:

FA9-1

The U.S. Environmental Protection Agency (EPA) has reviewed Constitution Pipeline Company's Preliminary Migratory Bird and Upland Forest Plan dated May 2014. EPA has several technical comments on and issues with the Plan that we shared with both the U.S. Fish and Wildlife Service (FWS) and the New York State Department of Environmental Conservation on May 27. However, we also have a major procedural concern in that the Migratory Bird and Upland Forest Plan was not part of the Federal Energy Regulatory Commission's (FERC) Draft Environmental Impact Statement for the Constitution Pipeline and Wright Interconnect Projects, and therefore did not receive thorough public and agency review and comment.

As noted in Constitution Pipeline's Plan, the Memorandum of Understanding between the FERC and FWS that sets the policy for these plans states FERC will, "Direct applicants, where appropriate, to jointly develop project-specific conservation measures with the FWS during the pre-filing process and/or the initial planning of projects..." EPA believes that pre-filing is commonly understood to be that period before FERC begins the environmental process under the National Environmental Policy Act. As a major element of the project, EPA also believes it is important for the mitigation plan to be part of the Draft Environmental Impact Statement so that it will undergo the same level of public involvement and scrutiny.

Thank you for your consideration of this issue. If you have any questions or would like to discuss it, please contact Lingard Knutson of my staff at (212) 637-3747.

Sincerely,

Grace Musumeci, Chief  
Environmental Review Section

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 50% Postconsumer content)

FA9-1

The EPA's sharing of comments on the draft upland forest mitigation plan with the FWS and the NYSDEC is noted. Constitution Pipeline has been coordinating with the FERC, the FWS, the NYSDEC, other agencies and groups regarding potential impacts on upland forests and migratory birds since the initiation of the pre-filing process. This ongoing coordination has continued into the post-filing period as well.

Although the draft upland forest mitigation plan was not available for inclusion in the draft EIS, we recommended the in the draft EIS that it be developed in consultation with the FWS, the NYSDEC, the ADCNR, and the PGC, thereby ensuring direct involvement by the agencies with the most relevant regulatory authority and expertise. See the response to comment FA4-29 and a link to the document publically filed on May 6, 2014. Further, any agency, group, or individual was allowed to provide comments on the draft plan until the publication of the final EIS, thereby allowing public involvement and scrutiny. We have reviewed and considered such comments received, and this appendix includes our responses to comments filed on the record regarding the draft plan.


# FEDERAL AGENCIES

FA10 – Congress of the United States House of Representatives – Chris Gibson

20140618-0038 FERC PDF (Unofficial) 06/17/2014

CP13-499

**CHRIS GIBSON**  
19th District, New York  
1708 Longworth Building  
Washington, DC 20515  
(202) 225-6614  
<http://gibson.house.gov>

  
**Associated Public Bill**

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**  
**June 3, 2014**

**HOUSE AGRICULTURE COMMITTEE**  
Subcommittee on General Farm  
Commodities and Risk Management  
Subcommittee on Livestock,  
Rural Development, and Credit

**HOUSE ARMED SERVICES COMMITTEE**  
Subcommittee on Tactical Air and  
Land Forces  
Subcommittee on Intelligence,  
Emerging Threats, and Capabilities  
Subcommittee on Military Personnel

**EXTERNAL AFFAIRS**  
**2014 JUN 17 A 9 28**  
**FEDERAL ENERGY**  
**REGULATORY COMMISSION**

Director of Governmental Affairs  
Elk Street Group  
25 Elk St  
Albany, NY 12207


Dear Mr. Pablo,

FA10-1 I write to you on behalf of two of my constituents who will be affected by the proposed Constitution Pipeline. Mr. Gaetano Catapano and Mr. Edward Stanton in Schoharie County have both reached out to my office regarding effects the pipeline will have on their property and future. I find it pertinent that both property owners have an equal voice and opportunity to express their concerns on how the pipeline may encroach on their current way of life and future uses.

It has been my intent throughout this process to encourage that property rights not be infringed upon. Therefore I urge Constitution Pipeline, FERC, Mr. Catapano and Mr. Stanton to get together and review all options to try to reach a compromise that is acceptable to all involved.

As I travel across Upstate New York, families, farmers and small business owners in my District often cite high energy costs as one of their largest impediments to growth. I applaud the work that you are doing to address this issue by increasing American-made energy and subsequently lowering energy costs for all Americans. At the same time, I want to express how imperative it is that the health and safety of surrounding area be considered a priority during planning and execution.

Thank you for your consideration and attention to this matter. Please keep my District staff apprised of all developments here.

Sincerely  
  
Chris Gibson  
Member of Congress

CC: Elk Street Group  
Constitution Pipeline  
FERC  
Senator Seward  
Assemblyman Peter Lopez  
Mr. Gaetano  
Mr. Stanton  
CPG:pab

**FILED**  
**SECRETARY OF THE**  
**COMMISSION**  
**2014 JUN 16 A 9 17**  
**FEDERAL ENERGY**  
**REGULATORY COMMISSION**  
2014-00141

FA10-1

The FERC staff has received and considered comments from Mr. Catapano (IND240, IND316, and IND317) and Mr. Stanton (CO55, IND251, and IND594). Section 3.4.3 of the EIS has been revised with new information regarding the subject properties and our assessment of potential reroutes and impact avoidance, minimization, and mitigation measures.

Safety of the proposed projects is discussed in section 4.12, and property rights are discussed in section 4.8.2 of the EIS.

Federal Agency Comments

FEDERAL AGENCIES

FA11 – United States Senate – Kirsten Gillibrand

20140723-0054 FERC PDF (Unofficial) 07/22/2014

KIRSTEN E. GILLIBRAND  
NEW YORK  
SENATOR  
RUSSELL SENATE OFFICE BUILDING  
SUITE 478  
WASHINGTON, DC 20510-3205  
202-224-4451

ASSOCIATED  
PUBLIC POLICY

United States Senate

WASHINGTON, DC 20510-3205

CP13-499  
COMMITTEES:  
ARMED SERVICES  
ENVIRONMENT AND PUBLIC WORKS  
AGRICULTURE  
SPECIAL COMMITTEE ON AGING  
CP13-502  
OFFICE OF  
EXTERNAL AFFAIRS  
2014 JUL 22 P 4 26  
REGISTRATION DIVISION

July 9, 2014

Mr. Chris Murray  
Director, Division of Government Affairs  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 11H  
Washington, D.C.

Dear Mr. Murray,

FA11-1

Enclosed is a letter from Patricia Kernan, regarding an issue with Constitution Pipeline's proposed route, which would traverse Henry S. Kernan Trust Lands.

I would appreciate your reviewing the information that has been presented and providing me with your comments. Please address your reply to my state office:

United States Senator Kirsten Gillibrand  
780 Third Avenue, Suite 2601  
New York, New York 10017-2024  
Attention: Azalea Carlea

Your cooperation and assistance are greatly appreciated. I look forward to hearing from you soon.

Sincerely,

Kirsten Gillibrand

Kirsten Gillibrand  
United States Senator

KG/AC\_HB

Attachments associated with this comment have not been included, but can be found on FERC's eLibrary [http://elibrary.FERC.gov/idmws/file\\_list.asp?accession\\_num=20140723-0054](http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20140723-0054)  
The 4-7-14 U.S. Representative Chris Gibson letter referenced in the comment was included in previously submitted FA7 and has been responded to.  
The 4-7-14 NYSDEC letter referenced in the comment was included in previously submitted SA4 and has been responded to.  
The 6-19-14 Hudson Highlands letter referenced in the comment was included previously submitted CO70 and has been responded to.

2014-00168

Alabama/Central District Office  
Liz M. O'Brien  
Federal Office Building  
1 Citizens Square, Room 801  
Birmingham, AL 35203  
Tel: (205) 421-0100  
Fax: (205) 421-0100

Bureau Office  
Linda M. Edwards  
728 Buchanan Street, Suite 511  
Baltimore, MD 21201  
Tel: (410) 526-8725  
Fax: (410) 526-8725

Lower Merion Office  
150 Pennsylvania Plaza  
Suite 200, 15th Floor  
Baltimore, MD 21201  
Tel: (410) 526-8725  
Fax: (410) 526-8725

North Country Office  
PO Box 272  
Lewistown, NY 13087  
Tel: (315) 336-4110  
Fax: (315) 336-4110

Recruiting Office  
Suzanne B. Keating  
Former Office Building  
180 State Street  
Room 410  
Recruiting, NY 14614  
Tel: (516) 363-4000  
Fax: (516) 363-4000

Shenandoah/Central NY Office  
James M. Scalet, Federal Building  
180 State Street  
Room 410  
PO Box 272  
Lewistown, NY 13087  
Tel: (315) 336-4110  
Fax: (315) 336-4110

New York City Office  
280 Times Avenue  
Suite 200  
New York, NY 10017  
Tel: (212) 688-8282  
Fax: (212) 688-8282

Hudson Valley Office  
PO Box 888  
Marquette, NY 12841  
Tel: (518) 475-4000  
Fax: (518) 475-4000

FA11-1

The commentor's request for our review of the attached information is noted. The attached letters, United States Rep. Chris Gibson letter dated April 7, 2014 (FA7), NYSDEC letter dated April 7, 2014 (SA4), and the Hudson Highlands letter dated June 19, 2014 (CO70) referenced in the comments were all previously submitted and have responses within this appendix. Chairman LaFleur responded to Senator Gillibrand's inquiry on August 1, 2014.

S-94

Federal Agency Comments

# FEDERAL AGENCIES

## FA11 – United States Senate – Kirsten Gillibrand (cont'd)

20140723-0054 FERC PDF (Unofficial) 07/22/2014

FA11-2

Thank you so much for continuing to help with the issue of a proposed pipeline on the Kernan property in Delaware County. When we spoke last week you asked for documents that specifically mention our land. There are many, many documents about avoiding wetlands such as ours and one from Patricia Denoyers of DEC that shows a map around our land, but nothing that specifically says "Kernan Trust Land" so it is extremely difficult to explain the situation. However, our land specifically has been in many verbal discussions. I have attached documents that might be of help to assess the status of the situation. At this point the DEIS has been submitted by CP and *five agencies requested extension to the comment period including Dept. of the Interior, DEC, ACOE and EPA because it was considered so inadequate.* This is all in their comments to FERC. The extension was not given and the next step in the process has not been made clear to the public.

I might add, that our lawyer, John Lyons, a couple of months ago advised us that the terms of the easement that CP offered were completely unacceptable. This is the only contract CP has been offering landowners and they say it is non-negotiable. I can find documentation for this deep in the thousands of e-mails if you need it. Landowners all along the route are being intimidated into signing easements that are very unjust.

#### Attached:

- 1) Letter from Patricia Denoyers (DEC lawyer) to Kimberly D. Bose (FERC) and Jodi M. McDonald (ACOE) on page 5 recommends on a map that Kernan land be avoided.
- 2) Memorandum from Dr. Sean Robinson, SUCO, a specialist in *Sphagnum* mosses
- 3) Letter (Appendix A, submitted to FERC) from Dr. Bernd Blossey of Cornell University regarding invasive species
- 4) Memorandum (Appendix I, submitted to FERC) from Steve Young, chief botanist for the New York Natural Heritage Program (NYNHP)
- 5) Comments submitted to FERC by Steve Gross of Hudson Highlands in response to the DEIS
- 6) Comments submitted by Kernan Trust in response to DEIS, relevant parts highlighted
- 7) Comments submitted by Kernan Trust in response to DEIS *additional* with relevant parts highlighted
- 8) Request for extension of DEIS by Kernan Trust, with relevant parts highlighted
- 9) Letter to Daily Star, (Oneonta) by Bruce Kernan Letter to Daily Star March 29, 2014
- 10) Letter to The Schenectady Gazette by Patricia Kernan to be published May 18, 2014

I hope we can talk later in the week.  
Thanks again,  
Patricia Kernan

FA11-2

See the response to comment FA1-1 regarding extension of the comment period and adequacy of the draft EIS. See the response to comment FA8-3 regarding easement negotiations. Note that only three of the referenced documents were actually attached to Senator Gillibrand's letter; see the response to comment FA11-1. Extensive comment letters received from the Kernan Land Trust, Kernan family members, and their agents are the subject of responses at CO4, CO5, CO6, CO9, CO12, CO24, CO37, CO43, CO50, CO54, CO70, and IND263.

# STATE AGENCIES

## SA1 – NYS Department of Environmental Conservation

### New York State Department of Environmental Conservation

Office of General Counsel, 14<sup>th</sup> Floor

625 Broadway, Albany, New York 12233-1500

Phone: (518) 402-9185 Fax: (518) 402-9018

Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joe Martens  
Commissioner

This comment has  
been previously filed  
twice by the same  
State agency.

March 24, 2014

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, D.C. 20426

Ms. Jodi M. McDonald, Chief  
Regulatory Branch,  
US Army Corps of Engineers  
New York District, CENAN-OP-R  
Upstate Regulatory Field Office  
Buffington Street, Bldg. 10, 3rd Floor  
Watervliet, New York 12189-4

Re: FERC Docket Nos. CP13-499-000, CP13-502-000, Constitution Pipeline Project and  
Wright Interconnect Project/Comment Period for Draft Environmental Impact Statement

Dear Secretary Bose and Ms. McDonald,

SA1-1

The New York State Department of Environmental Conservation (NYSDEC) respectfully requests an extension of the comment period for the Draft Environmental Impact Statement (DEIS) submitted on behalf of Constitution Pipeline Company, LLC and Iroquois Gas Transmission System, LP (collectively, Applicants). Due to: numerous outstanding studies; the volume of material in the DEIS; and limited information pertaining to the Applicants' agreements to deliver natural gas to communities along the proposed route, NYSDEC requests an extension of the comment period to allow Applicants time to submit all outstanding information by April 30th and to provide parties adequate time to review and provide comment on the revised DEIS by May 30th.

SA1-2

Although the DEIS provides a substantial discussion of the environmental impacts associated with the proposed project, Federal Energy Regulatory Commission (FERC) staff identifies several geologic and soil analyses that are not included in the DEIS. The revised DEIS should include:

- a slope stability analysis at MP 30.3;
- geotechnical feasibility studies for all trenchless crossing locations; and
- mitigation measures for karst terrains.

Moreover, since the proposed project would cross at least 277 surface waterbodies and more than 90 acres of wetlands, the following studies should also be included in the revised DEIS:

SA1-1

See the response to comment FA1-1.

SA1-2

The commentor highlights many of the recommendations contained in section 5.0 of the EIS. Each of the recommendations contained within the EIS has a timeframe for submittal of the information. Some information was requested so that it could be used during preparation of the final EIS, while other information was not to be delivered until prior to the start of construction. The measures that Constitution would adopt to mitigate construction within karst terrain were provided as part of its November 2013 supplemental filing ([http://elibrary.ferc.gov:0/idmws/file\\_list.asp?document\\_id=14160901](http://elibrary.ferc.gov:0/idmws/file_list.asp?document_id=14160901)). All relevant information provided by Constitution in response to conditions included in the draft EIS was incorporated into the final EIS. Any additional information that was designated to be provided prior to construction will be filed on our e-Library system and will be available to the public except for any critical energy infrastructure information or privileged and confidential information (such as reports identifying the location of sensitive cultural resources). Therefore, all appropriate information will be made available for public review as filed on our eLibrary system.



# STATE AGENCIES

## SA1 – NYS Department of Environmental Conservation (cont'd)

This comment has been previously filed twice by the same State agency.

SA1-2  
cont.

- identification of all water wells and springs within 150 feet of the proposed pipeline and contractor yards;
- a description of the impacts, and any proposed impact avoidance, minimization, and mitigation measures for each waterbody that would be impacted by workspaces but not crossed by the pipeline; and
- site-specific plans for the permanent access road crossings wetlands and associated waterbodies, including site-specific justifications for the use of permanent fill.

To further evaluate impacts to the waters and resources of the State, the revised DEIS should include:

- site specific blasting plans that include protocols for in-water blasting and the protection of aquatic resources and habitats;
- plans for water withdrawals, including timing restrictions at the specific locations; and
- surveys for State-listed threatened, endangered, or candidate species or species of special concern.

FERC staff also observes that the proposed project will impact approximately 440 acres of interior forest during construction and almost 220 acres during operations. As a result, the revised DEIS should include an Upland Forest Mitigation Plan to minimize forest impacts to specifically address any impacts on migratory bird habitat and forested areas.

SA1-3

Finally, the DEIS Scope submitted on September 7, 2012 and DEIS are devoid of information regarding Applicants' plan to provide municipalities along the proposed route with natural gas supplies from the proposed project.<sup>1</sup> In a motion to intervene dated June 12, 2013, Leatherstocking Gas Company LLC indicates that it entered into a Memorandum of Understanding with Constitution wherein Constitution may interconnect with Leatherstocking at numerous delivery points to build natural gas utility systems to serve homeowners, industrial customers and public buildings along the proposed route. Last week on March 18th, Applicants announced that four delivery taps will be installed along the proposed route to provide local gas service. Such details were not included in the DEIS Scope or DEIS and NYSDEC was not provided with the opportunity to review or provide comment.

NYSDEC staff is concerned that the additional plans for local gas distribution represent a significant expansion of the scope of the proposed project and that this information should be presented in a revised DEIS and made available for review and comment by all parties.<sup>2</sup> For all

<sup>1</sup> NYSDEC Scoping comments state, "[a]t a minimum, the draft EIS should describe and evaluate the following: 1) if the pipeline supply is available to additional customers along the route, describe what additional facilities or upgrades would be needed 2) discuss whether additional suppliers could be accommodated by this pipeline with and without a need for pipeline upgrades should drilling and production occur in areas serviceable by the pipeline and describe their associated environmental impacts; and 3) discuss the FERC approval process relating to system upgrades or modification such as additional compressor stations, lateral collection and distribution lines."

<sup>2</sup> For example, the DEIS should include: the location of the four proposed taps; the locations of the routes for the proposed feeder lines; a discussion of how the expansion of the proposed project includes the local service area affect the Alternative M (I-88) analysis; additional compression needed to serve this additional service area; and the terms of Delaware County IDA grant to fund the feeder line to Amphenol and the proposed route for that feeder line.

SA1-3

See the response to comment FA4-46 regarding the Leatherstocking proposal.




STATE AGENCIES

SA1 – NYS Department of Environmental Conservation (cont’d)

This comment has been previously filed twice by the same State agency.

SA1-4 | foregoing reasons, NYSDEC staff respectfully requests an extension of the comment period to allow Applicants time to submit all outstanding information by April 30th and to provide adequate time for all parties to review and provide comment on the revised DEIS by May 30th. Thank you for your consideration and please feel free to contact me with any questions that you have.

Very truly yours,  
  
Patricia J. Desnoyers

cc: Service List

SA1-4      See the response to comment FA1-1.

**STATE AGENCIES**  
**SA2 – NY Department of Public Service**

66-S

This comment has been previously filed twice by the same State agency.

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

www.dps.ny.gov

AUDREY ZIBELMAN

Chair


PATRICIA L. ACAMPORA

GARRY A. BROWN

GREGG C. SAYRE

DIANE X. BURMAN

Commissioners



KIMBERLY A. HARRIMAN

Acting General Counsel

KATHLEEN H. BURGESS

Secretary

April 4, 2014

VIA ELECTRONIC FILING

Ms. Kimberly D. Bose, Secretary

Federal Energy Regulatory Commission

888 First Street, NE

Washington, DC 20426

Re: Constitution Pipeline Company, LLC

Docket No. CP13-499-000

Iroquois Gas Transmission System, L.P.

Docket No. CP13-502-000

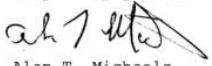
SA2-1

Dear Ms. Bose:

Attached please find the Comments of the New York Public Service Commission on the Draft Environmental Impact Statement in the proceeding of the Constitution Pipeline Company, LLC, and the Iroquois Gas Transmission System, L.P.

Should you have any questions, please contact me at (518) 474-1585.

Very truly yours,



Alan T. Michaels

Assistant Counsel

Attachment

SA2-1

The commentor's background information is noted. The information regarding the communication towers was provided to the FERC at the same time as it was provided to the public. We have revised and updated the EIS to include details about the proposed towers based on information that we requested from Constitution, including the list of items provided by the New York Public Service Commission.

State Agency Comments

STATE AGENCIES

SA2 – NY Department of Public Service (cont'd)

S-100

This comment has been previously filed twice by the same State agency.

SA2-1  
cont'd

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Constitution Pipeline Company, LLC ) Docket No. CP13-499-000  
Iroquois Gas Transmission System, L.P.) Docket No. CP13-502-000

COMMENTS OF THE  
NEW YORK PUBLIC SERVICE COMMISSION

The following are comments from the New York Public Service Commission (NYPSC) regarding the Draft Environmental Impact Statement (DEIS) for the proposed Constitution Pipeline and Wright Interconnect Projects to be constructed and operated in New York State. Our comments seek to address areas of interest to NYPSC, including: co-location of pipeline facilities with other utility facilities; protection of critical utility infrastructure; pipeline integrity; potential expansion of gas service in Chenango, Delaware and Otsego County areas; and potential construction and operational impacts on the natural and cultural environment.

INTRODUCTION

NYPSC has oversight responsibilities for the safe and reliable operation of utility infrastructure in New York State, including acting as the agent for the federal Department of Transportation (USDOT) fuel gas transmission pipeline safety

# STATE AGENCIES

## SA2 – NY Department of Public Service (cont'd)

This comment has been previously filed twice by the same State agency.

SA2-1  
cont'd

requirements.<sup>1</sup> NYPSC also has extensive experience in siting, construction, operation and long-term maintenance aspects of utility infrastructure, including gas and electric transmission facilities, co-location issues, and environmental impact evaluation, avoidance and mitigation. NYPSC and its Departmental Staff have direct responsibilities for utility siting and construction for intra-state gas transmission pipelines pursuant to New York State Public Service Law (PSL) Article VII. NYPSC offers the following comments on the DEIS developed pursuant to the National Environmental Policy Act<sup>2</sup> for the Constitution Pipeline and associated Wright Compressor Station.

### BACKGROUND

On September 7, 2012, the Federal Energy Regulatory Commission (FERC) issued a Notice of Intent to Prepare an Environmental Impact Statement for the Planned Constitution Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings (the Notice and Request).

NYPSC Departmental staff met with Constitution Pipeline representatives in May and July, 2012, and discussed a range of concerns including co-location of pipeline facilities with other utility facilities; protection of critical utility

<sup>1</sup> Natural Gas Pipeline Safety Act of 1968, and Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. §601.

<sup>2</sup> National Environmental Policy Act of 1969, 42 U.S.C. §4321 et seq.

STATE AGENCIES

SA2 – NY Department of Public Service (cont'd)

S-102

This comment has been previously filed twice by the same State agency.	
SA2-1 cont'd	<p>infrastructure; pipeline integrity; potential expansion of gas service in Chenango, Delaware, and Otsego County areas; and potential construction impacts on public water supply and other resources.</p> <p>On February 12, 2014, FERC issued a Notice of Availability of the Draft Environmental Impact Statement (DEIS) and Public Comment Meetings for the projects. The DEIS provides basic information about the Constitution Pipeline proposal, which includes the proposed development of: a 120 mile long, 30-inch diameter pipeline from Susquehanna County, Pennsylvania, to Schoharie County, New York; a new compressor station with two 16,000-horsepower turbines at a station in Schoharie County; a pig launcher in Schoharie County; and proposed main line valve assemblies at various locations in New York State.</p> <p>Subsequent to the issuance of that Notice, Constitution Pipeline has submitted various supplemental documents and additional information regarding details of the project, including financial and rate-related information on February 13, and March 4, 2014; minor modifications to facility routing on March 14, 2014; and identification of the need for eleven communications towers on March 26, 2014.</p> <p>-3-</p>

STATE AGENCIES

SA2 – NY Department of Public Service (cont'd)

This comment has been previously filed twice by the same State agency.

DISCUSSION

SA2-1  
cont'd

**Supplemental Information is Needed to Evaluate Facility Impacts**

Constitution Pipeline provided a Supplemental Information filing on March 26, 2014, regarding the need to locate eleven communications towers with attachments, each exceeding 100 feet in height. The submittal included a typical profile design, and a brief description of these project components. However, the submittal does not provide any indication of the proposed locations of the eleven towers, and no supporting documentation as to any potential impacts that may result from siting of the towers.

The DEIS should be supplemented to provide at a minimum the following information:

- Proposed locations of towers;
- Accessibility needs and upgrades;
- Land Use suitability and conformance with zoning regulations applicable to tower location sites, including any applicable height restrictions and setback requirements;
- Potential interference with utility facilities including critical electric transmission infrastructure;
- Potential for interference with communications systems including microwave beam interference;
- Potential interference with airspace use near heliports and landing strips,
- Visibility assessments and viewshed analysis of each tower;
- Historic Resources evaluation of locations within areas of tower visibility.

STATE AGENCIES

SA2 – NY Department of Public Service (cont'd)

This comment has been previously filed twice by the same State agency.

SA2-1  
cont'd

Also an assessment of potential co-location of new communications equipment with existing communications towers or other facilities may be appropriate to reduce or avoid impacts of the siting of new facilities.

SA2-2

**Noise Analysis of the Iroquois Wright Compressor Station**

The description and analysis of potential noise impacts due to the addition of facilities at the Iroquois Wright Compressor Station warrants more information and analysis. The Iroquois Wright Compressor Station was carefully sited and designed to minimize noise impacts on the surrounding area, during the NYS Siting and Certification Proceeding pursuant to PSL Article VII, and the subsequent Natural Gas Act (NGA) review by FERC. The careful siting and noise mitigation design success is evidenced by comparing the Existing Ambient Noise Ldn levels with the Existing Wright Compressor Station Ldn levels in Table 4.11.2-6: the measured ambient and operating noise levels are reported as identical for each of the measurement locations NSA #4 through #9. Thus, the siting of the original Wright Compressor Station had no impact to surrounding community or noise receptors.

Table 4.11.2-6 of the DEIS reports that the projected potential increase in Ldn noise levels will be 8.9 dB at NSA #4, and 9.4 dB at NSA #7. These are significant increases above ambient levels, and above the existing operational levels of the Wright Station. While the DEIS concludes that the increase is acceptable since it is below the 55 dBA Ldn limit reported as

SA2-2

The commentator’s statement regarding noise at the proposed Wright Interconnect project facilities is noted. We concluded in section 4.11.2.3 of the EIS that Iroquois’ project would not result in significant noise impacts on the surrounding communities because we expect noise levels to be below our 55 dBA Ldn criteria (which is based on the EPA guidance), and the increase in noise over ambient conditions would be less than 10 dB at the nearest NSAs (which is the threshold used by the FERC). Increases in noise levels up to 9.4 dB at the NSA would be below the FERC threshold.

# STATE AGENCIES

## SA2 – NY Department of Public Service (cont'd)

S-105

This comment has been previously filed twice by the same State agency.

SA2-2  
cont'd

FERC criteria, it is an increase that is likely to result in regular complaints. Consideration of additional mitigation measures to avoid this significant increase in the level of operational noise is appropriate. Such concerns should be addressed in the final Environmental Impact Study.

SA2-3

**Gas Quality Considerations**

In comments on the scope of studies appropriate for the DEIS, NYPSC cited to experience in New York State demonstrating that there are risks to end-use equipment associated with moisture content in Marcellus Shale gas. On October 31, 2012, NYPSC filed its Comments in the pre-filing proceeding<sup>3</sup> and requested that the EIS address how the transmission facility will be protected from well-field moisture; identify where dehydration and separation equipment will be located; identify how pipelines will be monitored for moisture content; and identify content, volumes, and disposal methods of any emissions or waste products generated by operation of gas treatment or dehydration facilities. The DEIS does not indicate that this information has been addressed or provided. NYPSC reiterates its request to include this information in the final EIS.

SA2-4

**Gas Supply Considerations**

The proposed Constitution Pipeline presents an opportunity to expand natural gas service franchises in areas currently not

<sup>3</sup> Docket No. FP12-9-000.

SA2-3

Dehydrators, fluid separation facilities, and gas monitoring equipment (including moisture content), are standard appurtenant infrastructure at compressor station (proposed Iroquois' Wright Interconnect Project) and meter station facilities (two meter stations proposed by Constitution), and are included within the overall footprint of the facilities. Any emissions or waste products generated by natural gas treatment or dehydration processes would be characterized and disposed of in accordance with all applicable federal and state regulations.

SA2-4

See the response to comment FA4-46. As discussed in section 4.13.4 of the EIS, local distribution pipelines (such as Leatherstocking Pipeline) are not regulated by the FERC, but we have discussed them in general terms in our assessment of cumulative impacts. We are aware of preliminary plans by Leatherstocking to possibly supply natural gas service to Delhi and Fraser, New York, in addition to other areas. However, although Constitution and Leatherstocking have signed cooperation agreements, these plans are not final. We have updated sections 1.1 and 4.13 of the EIS to the extent possible with publicly available information, but it is not possible to perform a detailed cumulative impacts analysis of any natural gas distribution systems being considered by Leatherstocking in the absence of more definitive plans. Therefore, a detailed assessment of the potential impacts from Leatherstocking Pipeline at this time is not only impossible given the level of information available, but could lead to confusion and misstatement of project impacts. Any such project, if pursued, would be subject to all local, state, and federal permitting requirements, although as a natural gas distribution line the FERC would not have any regulatory authority. The potential for reduction in air emissions for the combustion of natural gas relative to other fossil fuels is discussed in section 3.1 of the EIS. Because the quantity of gas that could be transported by Leatherstocking is expected to be relatively small, if used to displace other energy sources such as fuel oil, it would not be a major source of greenhouse gas reductions.



# STATE AGENCIES

## SA2 – NY Department of Public Service (cont'd)

This comment has been previously filed twice by the same State agency.

SA2-4  
cont'd

served by gas utilities. Analysis of routing alternatives should address the potential to provide gas to unserved municipalities, and the extent of secondary pipeline spurs needed to reach areas of potential use, such as villages or industrial areas not presently served by natural gas utilities.

Additional environmental benefits in the nature of reduced greenhouse gas emissions related to fuel switching from oil to gas; and economic benefits in the nature of lower prices for heating or industrial process fuels from oil to gas should be identified in the EIS. Economic development opportunities related to expansion of potential gas service areas should be identified, also.

### CONCLUSION

Based on the foregoing, the NYPSC respectfully requests that the Commission take into consideration all of the comments and potential issues noted above during the review of the environmental impact statement for the proposed pipeline.

Respectfully submitted,

  
Kimberly Harriman  
General Counsel

By:  
Alan T. Michaels  
Assistant Counsel  
Public Service Commission  
of the State of New York  
3 Empire State Plaza  
Albany, NY 12223  
(518) 474-1585

STATE AGENCIES

SA2 – NY Department of Public Service (cont'd)

This comment has been previously filed twice by the same State agency.

SA2-4  
cont'd

CERTIFICATE OF SERVICE

I, Alan T. Michaels, do hereby certify that I will serve on April 4, 2014, the foregoing Comments of the New York State Public Service Commission upon each of the parties of record indicated on the official service list compiled by the Secretary in this proceeding.

Dated: April 4, 2014  
Albany, New York

  
Alan T. Michaels

# STATE AGENCIES

## SA3 – NYS Department of Agriculture and Markets

This comment was filed  
twice by the same State  
agency (4-7-14 and 4-14-14)



STATE OF NEW YORK  
DEPARTMENT OF AGRICULTURE & MARKETS  
10B Airline Drive, Albany, NY 12235  
518-457-4188  
www.agriculture.ny.gov

Andrew M. Cuomo  
Governor

Richard A. Ball  
Acting Commissioner

April 7, 2014

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

Re: Docket Nos. CP13-499-000 Constitution Pipeline Company, LLC  
CP13-502-000 Iroquois Gas Transmission Systems, L.P.

Dear Secretary Bose,

SA3-1

The Department of Agriculture and Markets has been participating as a cooperating agency in the review of the Constitution Pipeline and Wright Interconnect Projects, proposed by Constitution Pipeline Company, LLC (Constitution) and Iroquois Gas Transmission Systems, L.P. (Iroquois), respectively. The Department has made a number of recommendations to Constitution and FERC staff to minimize the impacts to agricultural resources and farm operations along the proposed pipeline route. Many of these recommendations have either been incorporated into the plans proposed by Constitution or have been addressed by FERC in the Draft Environmental Impact Statement. However, there are still three routing issues that the Department has been unable to resolve with Constitution. The Department believes that these issues need to be addressed in order to minimize the agricultural impacts from the proposed project.

Department staff have met with Constitution representatives and the owner of parcels NY-CH-015.000, UA-NY-015.001, and NY-CH-016.000 to discuss the routing concerns and possible minor deviations. While Constitution proposed a minor deviation to reduce the impacts, the Department believes the impacts can be reduced even further. The route proposed by Constitution would bisect hayfields on an oblique angle, making it difficult to harvest the crops from these fields during construction and restoration. The route would also bisect a farm woodlot at an oblique angle impacting future logging and firewood production. The landowner has recommended the pipeline follow the edge of the fields and follow his logging roads along the edge of his woodlot, minimizing the impact to both the hayfields and the woodlots. The Department fully supports this minor deviation.

SA3-2

Parcel ALT-O-NY-SC-017.000 is part of a large dairy Concentrated Animal Feeding Operation (CAFO) in Schoharie County and the location of the pipeline route on this parcel is in close proximity to the main dairy complex. This farm operation has plans to expand their facilities in the future and has stated that the proposed location of the pipeline would prevent such an expansion. The owner of the farm has provided the Department with documentation from their lender concerning the farm expansion. The farm owner has requested that this information remain confidential. As a result, the Department is

SA3-1

Section 3.4.3.3 of the EIS has been revised to address the issues associated with parcels NY-CH-015.000, UAN-NY-015.001, and NY-CH-016.000.

SA3-2

Section 3.4.3.3 of the EIS has been revised to address the issues associated with parcel ALT-O-NY-SC-017.000.

# STATE AGENCIES

## SA3 – NYS Department of Agriculture and Markets (cont'd)

2

SA3-2  
cont'd

providing this documentation to FERC staff separately. New York State has been encouraging the expansion of the dairy industry and has assisted farms such as this with the tools necessary for future growth. The Department has recommended that the pipeline be routed away from this actively growing farm business and be routed across adjacent lands that are currently unused. We urge FERC to consider the impacts to this dairy operation and take the appropriate steps to protect their future growth.

SA3-3


The agricultural land associated with parcels NY-SC-156.000 and NY-SC-160.000 are also used as part of the large dairy operation mentioned above. The farmer stated that, because the fields on these two parcels are relatively small, bisecting the fields with the proposed pipeline would make it impossible to use these fields for crop production during pipeline construction and restoration. During my meeting with this farmer, he pointed out that, because his farm is a CAFO, he is required to comply with the New York State Department of Environmental Conservation (NYSDEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Concentrated Animal Feeding Operations. He also pointed out that the construction of the pipeline in his crop fields could impact his compliance with the SPDES General Permit.

In order to comply with the SPDES General Permit, CAFOs are required to follow a Comprehensive Nutrient Management Plan (CNMP) that is prepared by a Certified Nutrient Management Planner and includes, but is not limited to, details relative to erosion control, crop rotation, and balancing crop nutrient applications (including animal waste). These CNMPs are complex documents that are costly to produce and update. The Certified Nutrient Management Planner for this farm, Lisa Kuehnle, has provided FERC with a letter explaining the impact the proposed pipeline location would have on this farmer's ability to follow his CNMP and remain in compliance with the NYSDEC requirements. The Department agrees with Ms. Kuehnle's concerns. If this farm operation is not able to use the fields crossed by the proposed pipeline route for animal waste application and crop production during construction and restoration, they would not be in compliance with their CNMP and would be in violation of the SPDES General Permit requirements. In order to maintain compliance, they would need to find additional cropland to use for animal waste application and crop production and would need to have a CNMP developed for this cropland. The farm operator has requested that all information relative to his CNMP and compliance with the SPDES General Permit be kept confidential.

After discussing the proposed pipeline route with this farmer and the owner of the property on Schoharie Hill Road, it was obvious that locating the pipeline along the edge of the fields would significantly reduce the agricultural impacts and prevent noncompliance with the SPDES General Permit. The proposed reroute would not result in any increase in the length of the pipeline and may even be shorter than the current proposed route.

The Department is committed to working out a solution that protects the agricultural resources of NYS to the fullest possible extent. Thank you for your consideration of these concerns raised by the landowners, farm operators and the Department.

Sincerely,

  
James B. Bays  
First Deputy Commissioner

SA3-3

Section 3.4.3.3 of the EIS has been revised to address the issues associated with parcels NY-SC-156.000 and NY-SC-160.000.

S-109

# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation

New York State Department of Environmental Conservation  
Office of General Counsel, 14<sup>th</sup> Floor  
625 Broadway, Albany, New York 12233-1500  
Phone: (518) 402-9185 Fax: (518) 402-9018  
Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, D.C. 20426

April 7, 2014

Ms. Jodi M. McDonald, Chief  
Regulatory Branch,  
US Army Corps of Engineers  
New York District, CENAN-OP-R  
Upstate Regulatory Field Office  
Buffington Street, Bldg. 10, 3rd Floor  
Watervliet, New York 12189-4

This comment has been  
filed twice by the same  
State agency

Re: FERC Docket Nos. 13-499-000, CP 13-502-000, Constitution Pipeline Project and  
Wright Interconnect Project/ NYSDEC Comments, Draft Environmental Impact  
Statement

Dear Secretary Bose and Ms. McDonald,

SA4-1

The New York State Department of Environmental Conservation (NYSDEC or Department) respectfully submits the following preliminary comments on the Draft Environmental Impact Statement (DEIS) submitted by the Federal Energy Regulatory Commission (FERC) on behalf of Constitution Pipeline Company, LLC and Iroquois Gas Transmission System, LP (collectively, Applicant or Constitution). Specifically, the first part of these comments will provide a detailed analysis of Alternative M and the second part will consist of miscellaneous comments on a variety of environmental issues.

### Analysis of Alternative M, DEIS Section 3

First and foremost, NYSDEC staff contends that the DEIS prematurely eliminates further consideration of all or portions of Alternative M which would significantly reduce environmental impacts and serve to promote the FERC's policy to use, widen or extend existing rights-of-way (ROW) when locating proposed facilities.<sup>1</sup> The elimination of Alternative M is inconsistent with FERC's licensing requirements under 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations, and with 40 C.F.R. Parts 1500-1508.<sup>2</sup> Based on an independent

<sup>1</sup> See 18 C.F.R. Section 380.15 (d) FERC regulations implementing NEPA, siting and maintenance requirements.

<sup>2</sup> See 15 U.S.C. Section 717 (NGA), 40 C.F.R. Parts 1500-1508 (CEQ). Specifically, 40 C.F.R. §1500.2 (Policy) states that: Federal agencies shall to the fullest extent possible: (a) Interpret and administer the policies, regulations, and public laws of the United States in accordance with the policies set forth in the Act and in these regulations. (b) Implement procedures to make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by

SA4-1

Alternative M is discussed in detail in section 3.4.1.2 of the EIS. The FERC staff also reviewed the commentor's proposed modifications to alternative M, and section 3.4.1.2 of the EIS has been revised to reflect additional information and analyses.

# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

S-111

SA4-1  
cont'd

comparison of the preferred alternative with Alternative M, Department staff concludes that Alternative M offers many environmental benefits, particularly those which reduce impacts on fish and wildlife habitat.<sup>3</sup> In general, these benefits stem from locating the pipeline near or within the existing Interstate 88 (I-88) corridor where fewer sensitive habitats are located. NYSDEC staff has determined that Alternative M, with two minor routing modifications, results in substantially fewer impacts to three critically important fish and wildlife habitats: interior forests; wetlands; and streams. Accordingly, the Department requests that FERC require Applicants to conduct additional analysis outlined below and, thereafter, reevaluate its conclusions regarding Alternative M.

SA4-2

### *Interior Forest Habitats*

Large blocks of forest provide critical interior forest habitat for many declining species in New York. Linear projects, like gas pipelines, can have a disproportionate impact on these habitats by fragmenting large blocks of habitat into smaller blocks that provide little or no value to these declining species. To evaluate the potential impact on this important habitat type, Department staff compared the linear distances of pipeline through interior forest habitat under three scenarios (See Table 1 below). Staff compared the preferred alternative with Alternative M and a third scenario that includes 2 relatively short - but environmentally significant - modifications to Alternative M (See Figure 1). This third scenario avoids bisecting a large block of forest interior habitat (>6,000 acres) and avoids ecological and recreational impacts to the Robert V. Ridell State Park. For this analysis, forest interior habitats are defined as blocks of forest greater than or equal to 150 acres. That size is based on studies of minimum forest patch sizes for forest breeding birds (Roberts and Norment 1999, Hoover et al. 1995, Robbins 1979) and studies that show negative impacts along a forest edge can extend between 200-500 feet into the forest interior (Rosenburg et al. 1999, Robinson et al. 1995).

Significantly, results from NYSDEC staff's analysis show almost a 14% reduction in potential impacts to forest interior habitats could be achieved by choosing Alternative M over the preferred route and a 30% reduction in impacts by choosing Alternative M with modifications. This analysis does not differentiate between disturbances along edges of 150 acre blocks (as could be expected along the I-88 corridor) from locations in the core of 150 acre blocks. Thus, biological benefits of either Alternative M scenario could be even more pronounced when considering proximity to I-88.

evidence that agencies have made the necessary environmental analyses. (c) Integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively. (d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment. (e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment. (f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.

<sup>3</sup> Review of certificate applications requires examination of environmental impacts of the action in compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321 et seq. and associated regulations by the Council of Environmental Quality (CEQ), 40 C.F.R. Sections 1500-1508.

SA4-2

The limitations and constraints associated with placing the pipeline within the median or controlled access area of I-88 are discussed in section 3.4.1.2 of the EIS. The draft EIS evaluated alternative M (routed adjacent to I-88 where feasible, but outside of the controlled access area of I-88) relative to the proposed route for multiple assessment parameters including interior forest habitats. The EIS indicated that similar to the NYSDEC's findings, less (typically much less) forest interior habitats would be affected by the alternative M segments compared to the proposed route in every case except segment 1. The FERC staff considered the importance of impacts on interior forests in its alternatives analysis, including related impacts on wildlife habitats.

However, the FERC also considered multiple other environmental parameters (aside from interior forest impacts) and our analyses indicated that the proposed route segments 3 and 5/6 would have less impact on environmental parameters such as waterbodies, forested wetlands, and steep side slopes compared to alternative M. Increased crossings of steep side slopes in particular would result in greater engineering and safety concerns for design and construction of the pipeline, as well as increased risk of erosion during construction and instability during and after restoration. Although steep side slopes can't always be completely avoided during pipeline routing, and (are present to a lesser extent on the proposed route), typically side slope crossings are minimized during planning to limit the abovementioned concerns. Collectively, the alternative M segments 3 and 5/6 would cross 9.2 miles of side slopes compared to 1.0 mile for the corresponding proposed route segments. The FERC staff also completed numerous in-field reviews of the topographical constraints associated with alternative M on foot, by car along I-88, and by helicopter.

Additionally, the proposed route would affect less forested lands overall, property owners, and nearby residences for some of the alternative M comparison segments. The proposed route segments would also be shorter in length in each case as well, sometimes substantially shorter, a factor which would tend to further reduce environmental impacts and disturbance. We did not consider the alternative M segments to be preferable to the proposed route segments for these reasons.

**STATE AGENCIES**

**SA4 – NYS Department of Environmental Conservation (cont’d)**

SA4-2  
(cont’d)

The FERC staff also evaluated the two alternative M routing modifications identified by the NYSDEC that it called the “third scenario.” Our evaluation of the proposed route near the NYSDEC’s westernmost route modification indicated that the alternative M segment in this location was already collocated with I-88 adjacent to the controlled access area. We also evaluated the easternmost route modification proposed by the NYSDEC, which would deviate from near the beginning of alternative M segment 5, proceed north along a powerline right-of-way, then proceed northeast along I-88 before rejoining alternative M segment 5. A route similar or identical to this route was considered by Constitution early in the pre-filing process, but was dismissed for the reasons discussed below. Although the route modification would be west of and avoid the Robert V. Riddell State Park in the area east of the powerline, it would either cross state park property south of I-88 (since the park property crosses over I-88 to the north) or it would have to be sited within the controlled access area of I-88, or both. Further, this area contains steep side slopes which become even more pronounced as the modified route proceeds northeast before rejoining the original alternative M segment 5. We did not consider the alternative M segments to be preferable to the proposed route segments for these reasons.



# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

SA4-2  
cont'd

Table 1. Comparison of interior forest impacts in New York between the preferred route, Alternative M, and a modified Alternative M for the proposed Constitution Pipeline.						
	Preferred Alternative		Alternative M		Alt M w/ 2 potential modifications	
	Length (miles) <sup>1</sup>	Area (acres) <sup>2</sup>	Length (miles) <sup>1</sup>	Area (acres) <sup>2</sup>	Length (miles) <sup>1</sup>	Area (acres) <sup>2</sup>
Direct Impacts	41.1	498.2	35.4	429.1	29.1	352.7
Indirect Impacts	41.1	3,487.3	35.4	3,003.6	29.1	2,469.1

<sup>1</sup> approximate length of pipeline through patches of forest ≥150 acres in size, based on air photo interpretation

<sup>2</sup> based on 100 foot wide work area for direct impacts (DEIS pg 4-70) and an additional 300 foot wide area of indirect impacts from each side of work area (Howell et al. 2007, Maryland DNR 2000, Rosenberg et al. 1999, Robinson et al. 1995, Theris 1992)

SA4-3

### Wetland Habitats

To evaluate the potential impact on wetland habitats, NYSDEC staff compared the linear distances of pipeline through wetlands under the same three scenarios considered for forest interior habitats (See Table 2 below). While field delineation of wetland boundaries is the only method that can accurately quantify the extent of wetlands potentially impacted by the Project, air photo interpretation was used for this analysis because site specific data are not available for the entire length of Alternative M nor are they available for approximately 20% of the preferred route. NYSDEC staff's analysis included a comparison of the "quantity" of habitat potentially impacted, as well as a comparison of the relative "quality" of these habitats. The habitat quality was based on a categorization of each wetland area potentially impacted, considering proximity to existing development and the amount of natural vegetation. Generally speaking, areas adjacent to agricultural fields, residential development, and roads were ranked "average" while wetlands in undisturbed areas were ranked as "high." As demonstrated in Table 2, below, results show that impacts to wetlands were more than 25% lower for each Alternative M scenario compared with the preferred alternative.

Table 2. Comparison of wetland disturbance in New York between the preferred route, Alternative M, and a modified Alternative M for the proposed Constitution Pipeline.						
	Preferred Alternative		Alternative M		Alt M w/ 2 potential modifications	
	Length (ft) <sup>1</sup>	Area (acres) <sup>2</sup>	Length (ft) <sup>1</sup>	Area (acres) <sup>2</sup>	Length (ft) <sup>1</sup>	Area (acres) <sup>2</sup>
Disturbance to DEC Wetlands						
High Quality	2,505	4.3	510	0.9	390	0.7
Elevated Quality	1,160	2.0	0	0	0	0
Average Quality	0	0	0	0	0	0
DEC Wetlands Total	3,665	6.3	510	0.9	390	0.7
Disturbance to Other Wetlands						
High Quality	2,910	5.0	3,000	5.2	3,000	5.2
Elevated Quality	5,175	8.9	1,260	2.2	2,050	3.5
Average Quality	12,320	21.2	10,740	18.5	11,945	20.6
Other Wetlands Total	20,405	35.1	15,000	25.8	16,995	29.3
All wetlands	24,070	41.1	15,510	26.7	17,385	29.9

SA4-3

The NYSDEC's analyses of potential impacts on wetlands are noted. The alternatives analysis presented in section 3.4 indicated that similar to the NYSDEC's findings, overall wetland impacts for the proposed route segments were greater in quantity than or similar to impacts that would occur for the for the alternative M segments. The NYSDEC further assessed potential impacts based on wetland quality with high quality wetlands defined as being "undisturbed," containing natural vegetation, and being relatively far from development.

The FERC staff also evaluated wetland quality, but took a somewhat different approach consistent with the FERC policy and our review of other pipeline proposals. We considered that impacts on palustrine forested (PFO) wetlands can serve an indicator of impact on higher quality wetlands. PFO wetlands would be permanently affected within the maintained permanent right-of-way, resulting in wetland type conversion to palustrine scrub-shrub (PSS) or palustrine emergent (PEM) / herbaceous status, and taking long periods (20 years or more) to re-grow in cleared areas outside the permanent right-of-way. PEM and PSS wetlands may re-grow within 1 to 3 years of disturbance. Additionally, impacts on PFO wetlands often require applicants to provide compensatory mitigation at higher ratios than would be provided for impacts on PEM or PSS wetlands during COE permitting. Our analysis indicated that substantially fewer PFO wetlands would be impacted by the proposed route segments compared to the corresponding alternative M segments. As described in the response to comment SA4-2, comparison of impacts on PFO wetlands was one of several environmental parameters supporting our conclusion that the alternative M segments were not preferable to the proposed route segments.



# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

S-114

SA4-4

<sup>1</sup> approximate length of pipeline in wetlands, based on air photo interpretation  
<sup>2</sup> based on 75 foot work area (DEIS pg 4-61)

### Stream Habitats

Likewise, to evaluate the potential impact on stream habitats, Department staff compared pipeline crossings under the same three scenarios considered for forest interior and wetland habitats (See Table 3 below). Staff compared not just the numbers of potential stream crossings, but also considered the sensitivity of these streams to disturbance by categorizing each stream crossing location based on the water quality classification of the stream, the gradient of the stream, and the cover type surrounding the stream. Trout spawning streams with a high gradient and evergreen riparian areas were ranked "high", while non-trout waters on low gradient streams in open areas were ranked "average." Further, both Alternative M scenarios were clearly better than the preferred alternative for streams with a high sensitivity to disturbance.

Table 3. Comparison of stream crossings in New York between the preferred route, Alternative M, and a modified Alternative M for the proposed Constitution Pipeline.

	Preferred Alternative	Alternative M	Alt M w/ 2 potential modifications
Stream Crossings			
High Sensitivity	60	37	36
Elevated Sensitivity	19	27	31
Average Sensitivity	5	6	6
All Streams	84	70	73

### Potential Use of I-88 Rights-of-Way for Additional Reductions in Habitat Impacts

It is premature to conclude that no part of the pipeline route could fall within the controlled access area of I-88. The DEIS conclusion on page 3-31 is primarily based on a faulty assumption that federal rules regarding accommodation of utilities contained in 23 CFR 625, Subpart B, explicitly prohibit use of road ROWs when there are alternative sites to locate the utility. These federal rules contain such a requirement only for above ground installations (23 CFR 625.209(b)). In fact, the regulations at 23 CFR 625.205 explicitly state that it is in the public interest for utility facilities to be accommodated on the right-of-way.

NYSDEC acknowledges that the Federal Highway Administration (FHWA) and the New York State Department of Transportation (NYSDOT) must have detailed plans from potential developers to evaluate the affected parameters and make an informed determination regarding any potential use of the I-88 controlled access area. Although NYSDEC is engaged in a discussion with Applicants to complete a more thorough evaluation of Alternative M, including the potential use of portions of the I-88 controlled access area, the Applicant has unfortunately not submitted detailed information nor has it presented any detailed proposals or plans to NYSDOT or FHWA for review.

Unfortunately, only a list of potential constraints are presented in the DEIS without any detailed evaluation of the actual extent of these constraints or any evaluation of engineering and construction practices available to reduce or mitigate these challenges. For example, the DEIS

SA4-4

The alternatives analyses presented in section 3.4 of the EIS also discussed impacts on waterbodies. We concluded that the proposed route segments would generally impact fewer waterbodies overall, the same or fewer major waterbodies (those greater than 100 feet in width), and the same or fewer waterbodies designated as drinking water supplies. The NYSDEC's analyses evaluated relative waterbody sensitivity based on water quality classification, gradient, and cover type adjacent to the stream and found that fewer sensitive streams would be impacted for alternative M compared to the proposed route. The FERC's analysis used waterbody size and drinking water supply status as our criteria for sensitivity as indicated above.

The statements in the draft EIS regarding the need to demonstrate that no feasible alternatives exist in order that the New York State Department of Transportation (the NYSDOT) and the FHWA would consider collocation came from a letter from the NYSDOT to Williams Gas Pipeline dated September 24, 2012 which stated:

*All exception requests must show that alternate locations are not feasible or cannot be implemented from a standpoint of providing efficient utility services in a manner conducive to safety, durability and economy of maintenance and operations. Additionally, the request must demonstrate that the accommodation will not adversely impact the design, construction, operation, maintenance, or stability of the highway and that it will not interfere with or impair future expansion of the highway*

However, this statement did not form the primary basis of our conclusion regarding alternative M. We also note that the FHWA was a cooperating agency for the development of this EIS, during which the FERC staff participated in informal discussions regarding I-88, the control of access area, and the permitting required/associated with placing a pipeline in the easement.

# STATE AGENCIES

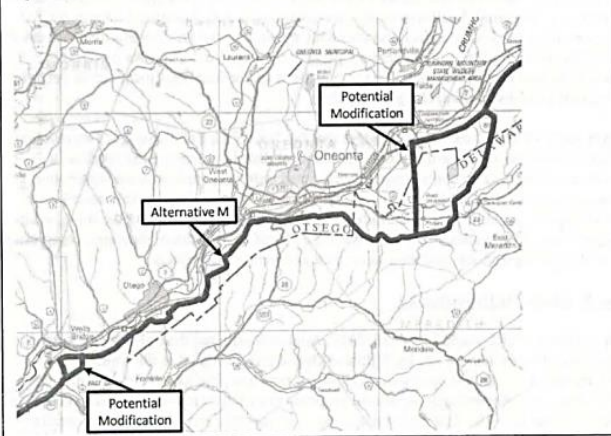
## SA4 – NYS Department of Environmental Conservation (cont'd)

SA4-4  
cont'd

states that I-88 was constructed along rocky cliffs and bluffs and speculates that these areas render Alternative M infeasible. Yet Applicant's engineers, as part of their analysis of Alternative M in the application, came to a different conclusion and found that installing the pipeline immediately adjacent to the ROW was feasible and constructable in many locations. Surely, the potential for enhancing the benefits of an already environmentally attractive alternative warrants further evaluation of Alternative M and potentially installing portions of the pipeline within the I-88 controlled access area. Not only is this consistent with FERC policy, this is also required by FERC's regulations implementing NEPA and NEPA regulations cited above.

The Department believes that just such an analysis should be conducted and has requested Constitution to provide additional analysis of Alternative M to determine the feasibility of several modifications to the route and to evaluate where placement in the controlled access could provide environmental and engineering benefits (See NYSDEC Letter to Constitution, Attachment A). NYSDEC further believes that the use of all or portions of Alternative M will provide significant environmental benefits and promote the important policy to use, widen or extend existing rights-of-way (ROW) when locating proposed facilities throughout the State.

Figure 1. Potential modifications to Alternative M of the proposed Constitution Pipeline.



SA4-4  
(cont'd)

Constitution did develop a route alternative generally collocated with I-88 (alternative M) and has coordinated with the NYSDOT and the FHWA, as has the FERC. Constitution provided its environmental assessment of alternative M relative to the proposed route, but it has not developed detailed engineering designs for alternative M for submittal to the NYSDOT, nor would that level of design be required for a major route alternative found to be not preferable to the proposed route given the current analysis as described in section 3.4.1.2 of the EIS and as further clarified in the response to comment SA4-2 in general and in particular for the constraints associated with side slope construction associated with rocky cliffs and bluffs. While construction along cliffs and bluffs may be technically feasible, often the technical constraints far outweigh potential benefits.

The FERC supports Constitution's continuing coordination with the NYSDEC, the FERC, and other agencies regarding alternative M.

# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

S-116

SA4-5	<p>NYSDEC staff also offers the following preliminary comments regarding specific DEIS sections outlined below.</p> <p><b><u>Purpose and Scope, DEIS Section 1.2</u></b></p> <p>1) NYSDEC staff agrees with the DEIS statement, "...it is likely that a substantial number of the outstanding surveys for Constitution's project (and associated agency permitting) would have to be completed after issuance of the Certificate." Particularly, NYSDEC is responsible for review and approval of a number of federally-delegated and State permits that are required prior to commencement of construction. These authorizations are generally described in DEC's comment letter on the Draft Scope dated November 7, 2012. NYSDEC has not received all necessary permit applications and has informed the Applicant that outstanding surveys will be needed following the issuance of a FERC Certificate to complete its permit review process.</p>
SA4-6	<p><b><u>Non-Jurisdictional Facilities, DEIS Section 1.4</u></b></p> <p>2) On November 7, 2012, NYSDEC's comments on the DEIS Draft Scope stated that the DEIS cumulative analysis must evaluate whether the pipeline would be reasonably available for supply and distribution for communities along the pipeline route and whether the pipeline could reasonably serve as a collector line for additional supply from New York Marcellus and Utica Shale formations. Recently, Leatherstocking Gas Company, L.L.C. (Leatherstocking) entered into a Memorandum of Understanding and attendant agreement(s) with Constitution to access the pipeline for local distribution to the Amphenol plant in Sydney, New York. As part of this agreement, Applicant states that it is willing to pay the costs for four taps (locations as yet to be determined) for local distribution along the pipeline.</p> <p>Although NYSDEC staff acknowledges that the New York Public Service Commission retains jurisdiction over facilities that would enable local distribution along the pipeline, a detailed discussion of the cumulative impacts associated with the proposed local distribution must be included in the DEIS. Specifically, the DEIS cumulative analysis should describe and evaluate whether the pipeline supply is available to additional customers along the route, what additional facilities or upgrades would be needed (i.e., length of additional pipelines, compressor stations, and metering stations) and their associated environmental impacts.</p>
SA4-7	<p><b><u>Proposed Facilities, DEIS Section 2.1</u></b></p> <p>3) In a letter to FERC dated March 26, 2014, Applicant outlined their plan to construct a radio communication system for use by Williams Operations personnel in the course of operation, maintenance, special operations such as pig runs and pipeline repairs, and during emergency situations. Accordingly, Applicant proposes to install a radio communication system consisting of eleven (11) 100-foot high monopoles, with antennas and lightning rods installed near the top of each pole. NYSDEC staff recommends that these additional facilities be added to the DEIS scope of work and reviewed for the following: a) visual impacts to inventoried sensitive visual receptors<sup>4</sup>; b) increased area of Project footprint, including additional impacts to</p> <p><small><sup>4</sup> See, <i>Assessing and Mitigating Visual Impacts - Program Policy</i>. DEP-00-2. July 31, 2000. <a href="http://www.dec.ny.gov/permits/36860.html">http://www.dec.ny.gov/permits/36860.html</a>.</small></p>

SA4-5 The commentator's agreement with the draft EIS is noted.

SA4-6 The possibility that the Constitution pipeline could transport additional volumes of natural gas beyond those currently proposed was discussed in section 2.7 of the EIS. We noted that with an increase in pressure of 1,400 pounds per square inch gauge (psig), the Constitution pipeline's maximum capacity would be 850,000 Dth/d, which is 200,000 Dth/d (31 percent) greater than the currently proposed level. This relatively modest allowance for increased capacity would likely preclude the use of the Constitution pipeline as a major conduit for newly emerging gas supplies, should they occur and if the proposed projects are certificated. See the response to comment FA4-46 regarding the Leatherstocking Pipeline proposal. We have updated section 4.13 of the EIS regarding development of the Marcellus Shale.

SA4-7 See the response to comment SA2-1 section 2 of the EIS which includes updated information concerning the communication towers.



# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

S-117

SA4-7 cont'd	interior forests, wetlands, streams or other resources; c) need for additional access roads or road length; and d) alternative locations including the potential to site communication lines with underground cable.
SA4-8	<p><b>Construction Procedures, DEIS Section 2.3</b></p> <p>4) The DEIS comment period deadline established by FERC does not allow NYSDEC staff sufficient time to conduct a thorough review of the State specific Environmental Construction Plans (ECPs); however, staff plans to submit supplemental comments to address any issues of concern in the ECP and to provide alternate recommendations for Best Management Practices (BMPs) if warranted.</p>
SA4-9	<p><b>Water Use and Quality, Groundwater Impact and Mitigation, DEIS Section 4.3.2.1</b></p> <p>5) The DEIS states that Constitution would monitor water quantity parameters including water column height, flow rate of existing equipment, water column drawdown, rebound time, volatile organic compounds, total petroleum hydrocarbons, and compounds used in blasting. This statement should be amended to include that laboratory environmental analyses are required to be performed at a NYS Environmental Laboratory Approval Program (ELAP) approved laboratory when there is an ELAP approved method for the target analyte.</p> <p>6) The DEIS state that Constitution's water supply well testing plans would comply with NYSDOH recommendations (2006). The referenced document is DOH Fact Sheet 3, <i>Individual Water Supply Well Fact Sheet for Recommended Residential Water Quality Testing</i>. Rather than simply refer to this document by reference, NYSDEC staff recommends that the analytes included in the DOH guidance document are listed to provide landowners with specific information regarding the parameters included in the proposed testing.</p> <p>7) NYSDEC staff agrees with the intent to include VOCs as part of the analytical list and methane should be included. The list of analytes should also include all constituents reasonably expected to be of potential concern (including blasting-related compounds in areas where blasting is to occur) in both pre-construction and post-construction sampling.</p> <p>8) Chain of custody documentation should be required for water sample analyses.</p> <p>9) Qualifications and training of persons who will be performing well water sampling, and the expert field assessment of seeps and springs within 150 feet of construction workspaces should be provided.</p> <p>10) Identify which local, State or federal agencies, in addition to "the Secretary," will be provided results of well testing as well as when they will be notified.</p> <p>11) Clarify whether the 150 feet of the proposed construction workspace includes areas where blasting would occur.</p>

SA4-8

See the response to comment FA1-1. Constitution filed its state-specific Environmental Construction Plans (ECPs) on June 13, 2013 as part of their FERC Application (8 months prior to the issuance of the draft EIS). ([http://elibrary.ferc.gov/0/idmws/file\\_list.asp?document\\_id=14122376](http://elibrary.ferc.gov/0/idmws/file_list.asp?document_id=14122376)). The ECPs were then revised in response to comments from stakeholders, agencies, and the FERC and re-filed in the administrative record as part of Constitution's November 2013 supplemental filing at [http://elibrary.ferc.gov/0/idmws/file\\_list.asp?document\\_id=14160901](http://elibrary.ferc.gov/0/idmws/file_list.asp?document_id=14160901).

SA4-9

As stated by Constitution in Resource Report 2, "Constitution will obtain a sample from the water well and send it for analysis at a Pennsylvania or New York (as appropriate) state-approved laboratory to test for concentrations..." The commentator's suggestion to include the analytes rather than reference the NYSDOH 2006 is noted. Constitution would collect any water samples using standard sampling procedures as required by local and state agencies as well as the laboratory requirements, such as chain of custody processes. Constitution further states in Resource Report 2, "A Constitution representative will contact landowners after the sample analysis has been conducted to provide the results of these pre-construction and post-construction sampling events. For any significant differences in the well water quantity between pre- and post-construction sampling events that cannot be attributed to naturally occurring conditions, such as seasonal groundwater level fluctuations, or changes in water quality constituent levels that exceed safe Pennsylvania or New York (as appropriate) state drinking water thresholds for potable water wells, Constitution will compensate the landowner for the installation of a new well or otherwise arrange for provision of suitable water supplies." The precise qualifications of the staff performing well sampling and the experts evaluating seeps and springs are not known at this time, but the work would be accomplished under the direction of the environmental inspector and Constitution's environmental staff. Further, the FERC's field monitors and compliance team would obtain copies of the assessments. Constitution's required water well testing reports could be requested by the FERC and shared with regulatory agencies upon request. Testing would be conducted within 150 feet of any approved workspaces, including karst and blasting locations.

# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

S-118

- SA4-10 12) In general, the criteria that will be used to determine when well owners would be provided an alternative water source or receive compensation should be defined in detail and agreed upon. Please define what criteria will be used to determine if the integrity of any water supply well will be impacted during construction.
- 13) The DEIS states that Constitution has also agreed to file with the Secretary, within 30 days after completion of construction, a report describing landowner complaints received regarding well quality and yield and how those complaints were resolved. In addition, Constitution would conduct additional pre-and post-construction monitoring for water quality and yield for wells and springs within karst areas.
- This statement provides a time frame for a report regarding landowner complaints. In addition, Applicant should provide a time frame for water well sampling after construction and a time period when re-sampling would occur in response to a complaint.
- 14) The DEIS should be amended to included the following information: 1) when Applicant will provide homeowners with the pre-construction testing results before post-construction sampling data are in; b) Applicant's proposed plan of action when the pre-construction testing identifies a problem with a private well; and c) when homeowners will be notified of any water quality issues identified with a private well.
- SA4-11 **Interior Forest Habitat, DEIS Section 4.5**
- 15) Pursuant to FERC's request, Constitution must file a draft Upland Forest Mitigation Plan in consultation with agencies including NYSDEC. To date, NYSDEC has not engaged in such consultations with Applicant. The Applicant must explore aggressive measures to avoid impacts to interior forest habitat, particularly where Constitution indicates that it would not reduce the ROW width in areas where steep slopes or other constraints exist for safety reasons.
- The DEIS indicates that Constitution would bisect 129 interior forest blocks greater than 35 acres, creating 55 forested blocks less than 35 acres in size. For these 129 interior forest blocks, the use of horizontal directional drilling (HDD) must be evaluated to determine if it can be used as a feasible method to completely avoid interior forest fragmentation and maintain as many areas of unbroken forest as possible. Constitution proposes to use this method at one location between milepost 54.23 and 55.18 to reduce surface disturbance at a steep slope (soil type E) in an AA watershed area, but the Applicant should consider HDD for this highly sensitive resource including all 129 interior forest blocks.
- SA4-12 **Special Status Species, DEIS Section 4.7**
- 16) The reference document cited for information regarding the yellow lampmussel is incorrect both here and in DEIS Appendix Q. Instead of New York State Office of Parks, Recreation, and Historic Preservation (NYS-OPRHP), the reference should be New York Natural Heritage Program (NYNHP).

- SA4-10 As stated in section 4.3.2.1, Constitution would be liable for any impact on water yield or quality occurring as a result of its project. If a landowner determines that their well has been impacted and they have not already been contacted by Constitution, they would first contact Constitution for resolution. If this direct contact fails, landowners may contact the FERC's Dispute Resolution Service (1-877-337-2237) and the FERC Project Manager for assistance. The commentor's statements regarding the timing of sampling, reporting, notifications, and resolution are noted. The EIS contains a schedule for reporting, that is within 30 days of the completion of construction. Any schedule for completing additional remedial work would be determined by the FERC staff as applicable upon reviewing the monitoring reports and any complaints. Also see the response to comment SA4-9.
- SA4-11 See the responses to comments FA4-29 and FA4-30 regarding the upland forest mitigation plan. The discussion of interior forest in section 4.5.3 of the EIS has been revised. Given workspace requirements, geotechnical conditions, constraints, and overall construction feasibility, we conclude that it is not feasible to use trenchless methods (conventional bore, HDD, and direct pipe) at the 129 interior forest blocks.
- SA4-12 We have revised the reference as suggested by the commentor.

# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

S-119

SA4-13 17) In response to a consultation letter from Constitution, dated October 23, 2013, NYSDEC provided a memorandum dated November 13, 2013 (see Attachment B) clarifying its concerns for this species. Constitution reported that at the proposed pipeline crossing of the Schoharie Creek, sediment laden water prevented a visual survey for this species; therefore a determination regarding the presence or absence of this species at this location was not able to be made.

NYSDEC staff believes that healthy and diverse mussel beds are present both upstream and downstream of the pipeline crossing point; therefore mussels are likely to be present in the proposed crossing area as well. Although yellow lampmussel is not a State-listed rare, endangered, threatened or special concern species, it is of conservation concern and is considered to be vulnerable in New York and legally protected under the ECL. Specifically, ECL Article 11 requires a permit to "take" such "shellfish" that include oysters, scallops, and all kinds of clams and mussels.

NYSDEC staff will consider the potential for impacts to this species and would include conditions in the Article 15 stream disturbance permit to avoid, minimize or mitigate potential impacts. Given the limitations of the survey conducted for this species, Constitution proposes to rely on an avoidance plan that includes: a) crossing the Schoharie Creek using a Direct Pipe method that would not disturb the streambank or streambed, thereby avoiding all impacts to this species; and b) if the Direct Pipe method is not feasible at this location, Applicant would implement a Dry Cut Trench method to isolate and dewater the proposed workspace. NYSDEC staff generally agrees that the Direct Pipe method is preferable to the Dry Cut Trench method, and if determined to be feasible and implemented without incident, would avoid impacts to yellow lampmussel in the creek. Further, the Dry Cut Trench would require a permit under Article 15 of the ECL, for excavation or placement of fill in a navigable waterway.

### SA4-14 Fisheries of Special Concern, DEIS Section 4.6.2.2

18) The DEIS incorrectly states that the he NYSDEC-recommended allowable construction window is from June 15 through September 30. On the basis of this statement, FERC recommends that Constitution should construct in-stream crossings of all trout and trout spawning waterbodies in New York between June 15 and September 30, or file the NYSDEC's approval to cross these waterbodies outside of the allowable construction window.

NYSDEC recently provided a letter to Applicant dated March 21, 2014 clarifying that the correct work window is June 1 to September 30 for trout and trout spawning ("t" or "ts) (see Attachment C).

### SA4-15 Air Quality and Noise, DEIS Section 4.11

19) In DEIS Table 4.11.1-6, Combined Existing Wright Compressor Station and Proposed Compressor Station Operations Emissions, the value for nitrogen oxides (NOx) at the 2 Existing Solar Taurus 60 Turbines is shown as 551.6 tons per year (tpy). This appears to be a typographical error since the total for NOx at "Existing facilities" shown farther down on the table is 54.2 tpy. If the first value is replaced with 51.6 tpy, the resulting total for existing facilities would be 54.37 tpy.

SA4-13

The commentor's agreement with the proposed crossing method for Schoharie Creek and the comment regarding the Article 15 permit is noted. The EIS includes a recommendation for sensitive or state-listed species that Constitution complete outstanding surveys and identify any additional mitigation measures developed in consultation with the state agencies prior to construction.

SA4-14

Section 4.6.2.2 of the EIS has been revised to reflect the proper construction window.

SA4-15

Table 4.11.1-6 has been corrected where applicable, but in accordance with standard FERC procedures regarding rounding and decimal places.



# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

- SA4-15  
cont'd
- 20) The value for total carbon monoxide (CO) at the existing facilities should be 64.069 tpy instead of 64.0 tpy.
- 21) The value for total carbon dioxide (CO<sub>2</sub>e) at the existing facilities should be 69,536.9 tpy instead of 69,304 tpy.

SA4-16

**Real Property Tax Law Section 480(a), DEIS Section 4.8.4.3**

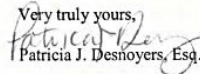
22) On page 4-127, the DEIS uses incorrect terms relating to New York Real Property Tax Law (RPTL) Sections 480 and 480-a and 6 New York Code Rules & Regulations Part 199. Specifically, "tax exception" should be replaced with "real property tax exemption" in the following sentence appearing on page 4-127 of the DEIS:

"The 480 and 480a Real Property Tax program provides tax exceptions for certain forest lands of at least 50 eligible acres for Section 480a or 15 acres for Section 480 in New York State."

23) In addition, the following paragraph on page 4-127 of the DEIS relating to tax penalties makes a partial statement of the law which could be misleading. This language should be replaced with exact language from the regulation for full meaning and effect of the law. The DEIS states that the Applicant does not believe based on NYSDEC regulation Title 6 New York Codes, Rules and Regulations Part 199, that the tracts enrolled in the program would be subject to fees or penalties as a result of the pipeline ROW or easement. This language in the DEIS should be clarified because in the general application of this law, penalties may result from voluntary proceedings establishing rights-of-way.

Specifically, the following sentence should be deleted: "[t]his provision states that owners of certified tracts shall not be penalized by the taking, voluntary or not, for the establishment of rights-of-way" and be replaced with exact language from 6 NYCRR Section 199.11[a] as follows: "The owner of a certified tract shall not be subject to any penalty that would otherwise apply because such tract or any portion thereof is converted to a use other than forest crop production by virtue of a voluntary proceeding, providing such proceeding involves the establishment of rights-of-way for public highway or energy transmission purposes wherein such corridors have been established subsequent to public hearing as needed in the public interest and are environmentally compatible." Finally, it should be noted that any amendment of a management plan must be approved by the Department in order for the certified tract to remain enrolled in the Forest Tax Law program.

NYSDEC staff appreciates your consideration of the important comments to the DEIS expressed herein. Please feel free to contact me with any questions or comments that you may have.

Very truly yours,  
  
Patricia J. Desnoyers, Esq.

Attachments  
CC: Parties List

SA4-16

Section 4.8.4.3 of the EIS has been revised as suggested.

S-120

# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

SA4-17

Attachment A

New York State Department of Environmental Conservation  
Division of Environmental Permits  
625 Broadway, Albany, NY 12233-1750  
Phone: (518) 402-9167 • Fax: (518) 402-9168  
Website: www.dec.ny.gov



March 17, 2014

Lynda Schubring, PMP  
Sr. Environmental Scientist  
Williams  
2800 Post Oak Blvd., Level 17  
Houston, TX 77056

Dear Ms. Schubring:

Please find attached the revised Scope of Work for further evaluation of Alternative M prepared by the Department of Environmental Conservation (DEC) in response to the Scope of Work submitted by Constitution on January 29, 2014. As you are aware, the purpose of the work plan is to further evaluate routing sections of Alternative M within the 1-88 controlled access area and is the result of the continuing dialog with DEC and other state and federal agencies regarding the feasibility of the proposed Alternative M. This revised Scope was prepared in consultation with staff from the U.S Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the Environmental Protection Agency, Region 2.

As you are likely aware, 40 CFR 1502.14 requires that an Environmental Impact Statement: (a) [r]igorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study; briefly discuss the reasons for their having been eliminated; (b) [d]evote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits. As such, the Department would like to continue to work with Constitution to fully develop the record on Alternative M in order to meet this requirement.

Please let me know if you would like to set up a meeting to further discuss moving ahead with this analysis. If you have any questions or comments, please contact me by phone at (518) 486-9955, or by email at [smtomasl@gw.dec.state.ny.us](mailto:smtomasl@gw.dec.state.ny.us).

Sincerely,

Stephen Tomasik  
Project Manager  
Major Projects Management Section  
Division of Environmental Permits

Attachment

cc: K. Silliman, VHB  
K. Bruce, USACE  
L. Knutson, EPA, Region 2  
Tim Sullivan, USFWS  
K. Bowman, FERC  
DEC Review Team

SA4-17

See the responses to comments SA4-1 through SA4-4.

S-121



# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

SA4-17  
cont'd

### Constitution Pipeline: Analysis of Routing within the I-88 Controlled Access Area

#### I. Study Objectives and Scope of Work

- a) Determine if the pipeline is physically constructable within the modifications of Alternative M described in IV(a) below and depicted on Maps 1 and 2. The goal of these modifications is to reduce environmental impacts.
- b) Determine where potential placement in the I-88 controlled access area would reduce the amount of side-slope construction or provide other engineering and environmental benefits over the existing Alternative M configuration. This analysis should be limited to those areas identified in IV(b) below and should address the parameters listed in Table 3.4.1-2 of the DEIS (page 3-34 and 3-35).
- c) Determine the constructability of necessary access roads to those portions of the potential modifications identified in a) and b), above.

#### II. Geographic Scope

- a) The geographic scope of this study will include the controlled access areas on the eastern and western side of I-88, potential highway cross-over sites, and potential modifications of Alternative M that would reduce forest impacts, including interior forests. Work should focus on the segments described in IV below and depicted on the attached maps.

#### III. Presentation of Results

Provide written reports to include the following elements:

- a) A re-designed Alternative M to include, wherever practicable, those portions of the I-88 controlled access area and other modifications identified in the Study Objectives described above. Include two mapsets at 1:10,000 scale that show the currently proposed and the re-designed Alternative M together with: a mapset using aerial photography as the base; and a separate mapset using USGS quadrangle maps as the base.
- b) Compare the re-designed Alternative M to the currently proposed Alternative M according to parameters used in DEIS Tables 3.4.1-2 through 3.4.1-6.
- c) A table similar to Table 3.4.1-2 with a column for preferred route, existing Alternative M, and revised Alternative M using I-88 controlled access areas and other modifications.

STATE AGENCIES

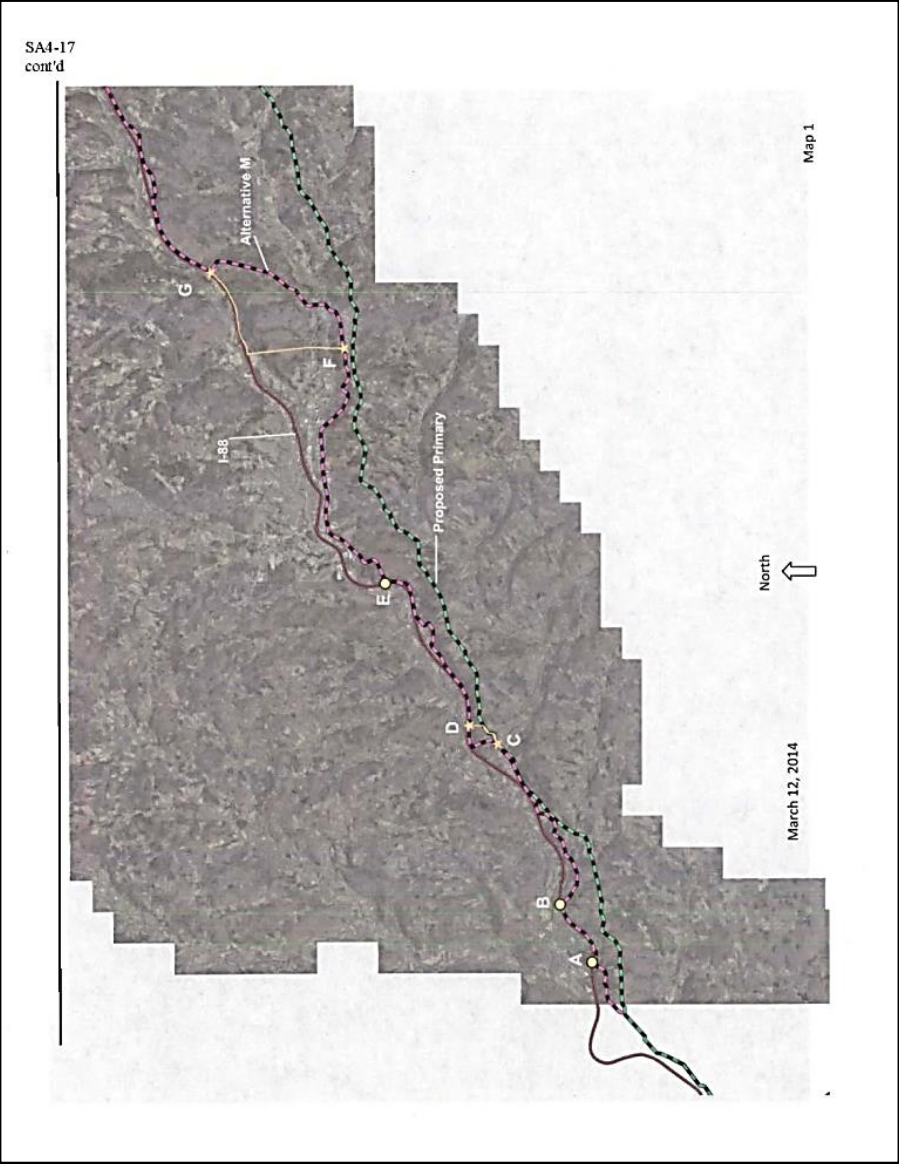
SA4 – NYS Department of Environmental Conservation (cont’d)

S-123

SA4-17 cont'd	<p><b>IV. Evaluation Parameters</b></p> <p>a) Evaluate the constructability of rerouting Alternative M in each of the following areas, as depicted on Maps 1 and 2:</p> <p>Between C and D, as shown by the orange line on the map</p> <p>Between F and G, as shown by the orange line on the map</p> <p>Between H and the currently proposed Alternative M line (approximately location I)</p> <p>Between K and the currently proposed Alternative M line (approximately location J)</p> <p>b) Evaluate constructability and benefits of placing the pipeline in the I-88 controlled access area in any locations, between each of the following points depicted on Maps 1 and 2, where doing so will enhance constructability and avoid obstacles including steep side slopes.</p> <p>A and B</p> <p>D and E</p> <p>G and H</p> <p>K and L</p>
------------------	--

STATE AGENCIES

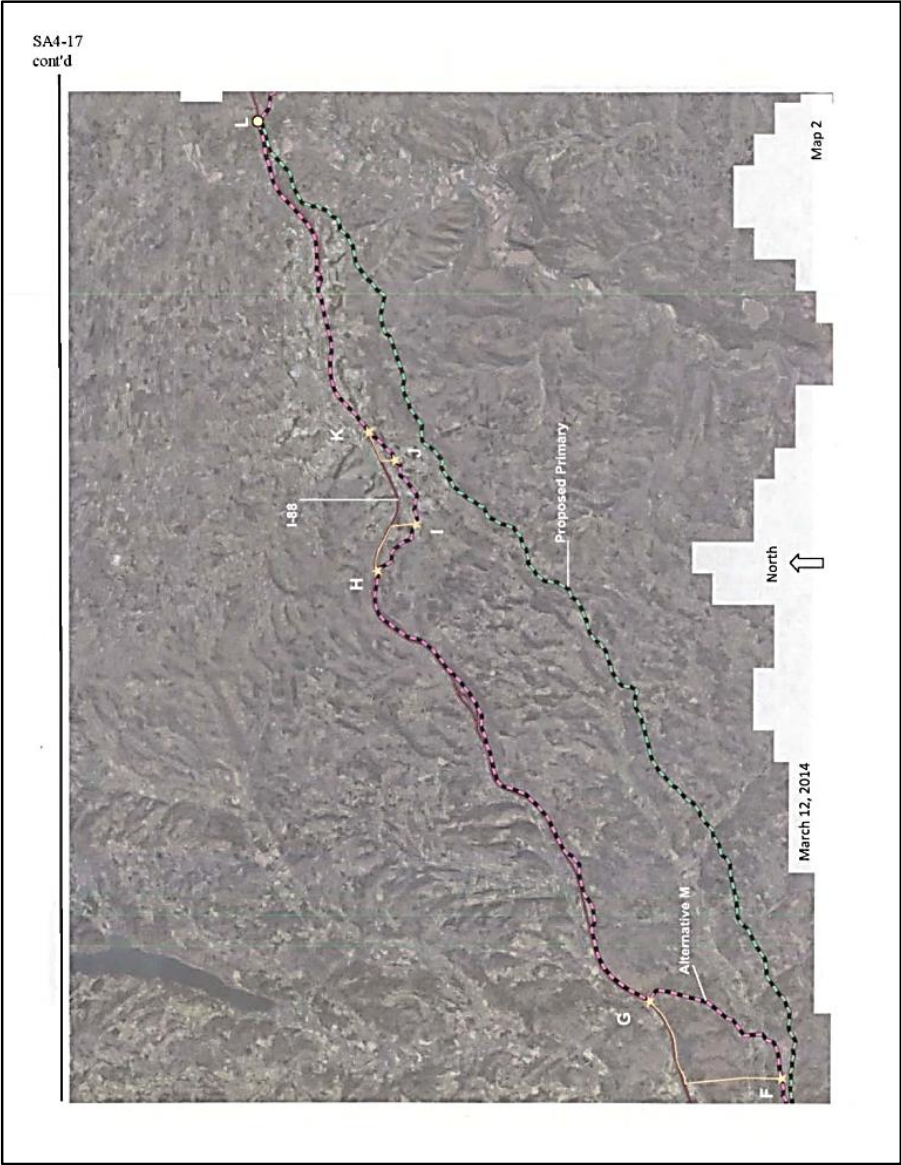
SA4 – NYS Department of Environmental Conservation (cont'd)



STATE AGENCIES

SA4 – NYS Department of Environmental Conservation (cont'd)

S-125



# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

SA4-18

Attachment B

New York State Department of Environmental Conservation  
Division of Environmental Permits  
625 Broadway, Albany, NY 12233-1750  
Phone: (518) 402-9167 • Fax: (518) 402-9168  
Website: www.dec.ny.gov



### MEMORANDUM

TO: Mr. Greg Hufnagel  
Senior Project Manager  
AECOM  
4 Neshaminy Interplex, Suite 300  
Trevose, PA 19053-6940

FROM: Stephen Tomasik  
Project Manager  
Major Projects Management Section  
Division of Environmental Permits  
NYS Department of Environmental Conservation  
625 Broadway - 4th Floor  
Albany, New York 12233-1750

RE: Yellow Lampmussel Presence-Absence Surveys in Schoharie Creek  
Constitution Pipeline  
Town of Schoharie, Schoharie County, New York

DATE: November 13, 2013

This memo is in response to your letter dated October 23, 2013 regarding efforts conducted by Constitution Pipeline Company to survey and assess the habitat of the Yellow Lampmussel (*Lampsilis cariosa*) at the proposed pipeline crossing of the Schoharie Creek in Schoharie County, New York. In your letter, you reported that sediment laden water prevented a visual survey for this species; therefore you are not able to determine the presence or absence of this species at this location. DEC staff have reviewed this letter, and have reported that there are healthy and diverse mussel beds known from both upstream and downstream of the pipeline crossing point, therefore it likely that there are mussels in the proposed crossing area as well.

Your letter indicates that the yellow lampmussel is not a state-listed rare, endangered, threatened or special concern species, but is of conservation concern and considered to be vulnerable in New York. This does not mean, however, that this species does not have legal protection in the state. All mussels are protected under the Environmental Conservation Law

Page | 1

SA4-18

See the response to comment SA4-13. Constitution's draft HDD Contingency Plan is discussed in section 4.3.3 of the EIS.

S-126

# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

SA4-18  
cont'd

(ECL) and their taking requires a permit from the Department. Article 11 of the ECL, § 11-0103, states that "Shellfish" means oysters, scallops, and all kinds of clams and mussels. "Taking" and "take" include pursuing, shooting, hunting, killing, capturing, trapping, snaring and netting fish, wildlife, game, shellfish, crustacea and protected insects, and all lesser acts such as *disturbing*, harrying or worrying, or placing, setting, drawing or using any net or other device commonly used to take any such animal. *No person shall, at any time of the year, pursue, take, wound or kill in any manner, number or quantity*, any fish protected by law, game, protected wildlife, *shellfish*, harbor seals, crustacea protected by law, or protected insects, *except as permitted by the Fish and Wildlife Law*. In this situation, DEC would consider the potential for impacts to this species and include conditions in the Article 15 stream disturbance permit to avoid, minimize or mitigate these potential impacts.

Given the limitations of the survey conducted for this species, Constitution proposes to rely on an avoidance plan that includes the following elements:

- Crossing the Schoharie Creek using a "Direct Pipe" method that would not disturb the streambank or streambed, thereby avoiding all impacts to this species;
- If it is determined that the Direct Pipe method is not feasible at this location, implementation of a "dry cut trench method" to isolate and dewater the proposed workspace.

Regarding the proposed Direct Pipe method, DEC generally agrees that this proposed method is preferable to the cut trench method, and if determined to be feasible and implemented without incident, would avoid impacts to Unionid mussel species, including yellow lampmussel in the creek. However, if a "fracking out" incident occurs, and there is a release of drilling mud into the waterway, a great deal of physical harm both lethal and chronic to finfish and mussels would be expected. If this crossing method is chosen, DEC will require a contingency plan as part of the Article 15 permit to minimize and mitigate impacts that may result from a frack-out incident.

Use of the "dry cut trench method" would require a permit under Article 15 of the ECL, for excavation or placement of fill in a navigable waterway. If it is determined that the Direct Pipe crossing method is infeasible, Constitution will need to submit a modification to the Joint Application for Permit to include the feasibility review of the Direct Pipe method showing why it is not feasible, details regarding the proposed crossing activity, assessment of the presence/absence of mussels at this location, and proposed removal and relocation methods.

If you have additional questions, please send them to me and I will direct them to the appropriate DEC staff.

cc: K. Bowman, FERC  
K. Bruce, USACE  
T. Sullivan, USFWS  
DEC Review Team



# STATE AGENCIES

## SA4 – NYS Department of Environmental Conservation (cont'd)

SA4-19

Attachment C

New York State Department of Environmental Conservation  
Division of Environmental Permits  
625 Broadway, Albany, NY 12233-1750  
Phone: (518) 402-9167 • Fax: (518) 402-9168  
Website: www.dec.ny.gov



March 21, 2014

Ms. Lynda Schubring, PMP  
Sr. Environmental Scientist  
Williams  
2800 Post Oak Blvd., Level 17  
Houston, TX 77056

Dear Ms. Schubring:

This letter is being submitted in response to your letter dated March 7, 2014 with a request that the New York State Department of Environmental Conservation (NYSDEC) clarify the specific calendar dates for seasonal in-stream construction work windows applicable to streams and waterbodies with a NYSDEC water quality standard designation of (T) or (TS). Following review of this request by the Division of Fish, Wildlife and Marine Resources, Stream Protection Program, NYSDEC concurs that allowable in-stream construction window for activities associated with this project is June 1 through September 30.

If you have any questions, please contact me by phone at (518) 486-9955, or by email at [smtomasik@gw.dec.state.ny.us](mailto:smtomasik@gw.dec.state.ny.us).

Sincerely,

Stephen Tomasik  
Project Manager  
Major Projects Management Section

cc: G. Hufnagel, AECOM  
C. Newhall, AECOM  
K. Silliman, VHB  
F. Bifera, Esq., Hiscock and Barclay, LLP  
K. Bruce, USACE  
K. Bowman, FERC  
DEC Review Team

SA4-19

The commentor's statements regarding in-stream construction work windows are noted. See the response to comment SA4-14.

S-128

# STATE AGENCIES

## SA5 – Pennsylvania Department of Conservation and Natural Resources – Office of Policy and Planning

S-129

20140408-5003 FERC PDF (Unofficial) 4/7/2014 5:36:44 PM

Rebecca K Oyler, Harrisburg, PA.  
Rebecca K. Oyler, Harrisburg, PA  
RE: Draft Environmental Impact Statement for the proposed Constitution Pipelines LLC and Wright Interconnect Projects.

From: Rebecca K. Oyler, Director, Office of Policy and Planning, PA, Department of Conservation and Natural Resources

SA5-1

The Department of Conservation and Natural Resources (DCNR) has reviewed the draft environmental impact statement that was submitted for the Constitution Pipeline LLC and Iroquois Gas Transmission System L.P. project that would involve the construction of several facilities in PA and NY. DCNR offers the following comments/concerns from the Bureau of Recreation and Conservation, the Bureau of Forestry, and the Bureau of Topographic and Geologic Survey:

The Bureau of Recreation and Conservation has reviewed the proposed project for potential conflicts with grant-funded park and recreation properties. This review identified one potential conflict with a Bureau-funded rail-trail in Susquehanna County east of Susquehanna Depot. Between mileposts 21 and 22, the proposed pipeline would cross the D&H Rail-Trail, which was acquired and developed by the Trails Conservation Corporation using grant funding assistance provided by the Bureau through the Keystone Recreation, Park and Conservation Fund. Therefore, the proposed pipeline construction must be coordinated with the Rail-Trail Council of Northeast Pennsylvania (i.e., the successor to the Trails Conservation Corporation) to ensure that trail users are adequately and safely accommodated during the construction process. Further, the trail surface and grade must be fully restored to pre-construction conditions upon completion of the pipeline installation. Please coordinate the draft pipeline easement agreement containing these avoidance/minimization measures with the Bureau by way of the Rail-Trail Council of Northeast Pennsylvania. The Bureau will review the draft easement agreement and issue its written response directly to the Rail-Trail Council for further action.

SA5-2

The Bureau of Forestry has been in consultation with AECOM Environment (John Zimmer) regarding state threatened and endangered (T&E) plant species impacts for the proposed Constitution Pipeline Project in Susquehanna County, Pennsylvania. DCNR has determined that there are no T&E plant species conflicts, provided the original proposed route is modified as indicated by the applicant for PA023 (MP 7.20-8.00) and PA016 (MP13.05-13.30). The proposed re-routes will avoid impacts to a documented plant Species of Special Concern in PA016 and a possible Species of Special Concern in PA023 (area only partially surveyed due to landowner denying access).

Summary of communications with Constitution and AECOM Environment regarding T&E and Special Concern Species surveys for the proposed pipeline:

DCNR sent John Zimmer of AECOM Environment a survey request for nine plant species of concern and one T & E plant species on May 29, 2012. There were seven areas with potential habitat for these species, and five of the seven areas were surveyed in July 2012, leaving two areas not surveyed due to inaccessibility because a landowner denied permission. During the plant surveys conducted in 2012, a small population of Carex disperma (soft-leaved sedge) was found in the East Lake Wetlands Natural Area in New Milford and Jackson Townships. Constitution agreed to avoid this Hemlock Palustrine Forest where C. disperma was found and reroute the pipeline. No other T & E or plant species of concern

SA5-1

We revised Section 4.8.4.3 of the EIS to include information regarding ownership of the trail. As stated in section 4.8.4.3, the D&H Rail-Trail would be crossed via conventional bore. Therefore, trail users and the surface would not be directly impacted.

SA5-2

The commentor's discussion of Constitution's adopted re-routes, pending surveys, and consultation status is noted. We recommend in section 4.7.3 of the EIS that prior to construction; Constitution should file with the Secretary the results of any outstanding surveys for New York and Pennsylvania state-listed species and identify additional mitigation measures developed in consultation with the applicable state agencies.



# STATE AGENCIES

## SA5 – Pennsylvania Department of Conservation and Natural Resources – Office of Policy and Planning (cont'd)

S-130

20140408-5003 FERC PDF (Unofficial) 4/7/2014 5:36:44 PM

SA5-2  
cont'd

were found in the areas. DCNR sent a no impact clearance letter per avoidance to AECOM for the Alternative Route T, Route S, and access road portions of the project, and No impact per avoidance of C. disperma population and botanical survey of the primary route for the portions that were surveyed in 2012. However, DCNR stated that the portions that were not surveyed in 2012 were still required to be surveyed. From May 2013 to June 2013, all remaining applicable areas were surveyed for the ten plant species, except PA023. This area was not surveyed for due to inaccessibility because of landowner permission denial. No Threatened and Endangered nor plant species of concern were found during the 2013 botanical surveys. Hence, a no impact per conditions letter was sent in December 2013, to clear areas that were surveyed in 2013 and if permission is granted by landowners in area PA023, then Constitution agrees to conduct botanical surveys in 2014.

No further coordination with DCNR is needed with regard to state threatened and endangered species impact unless permission to survey area PA023 is granted, in which additional botanical surveys will be conducted in 2014. Otherwise, area PA023 will be avoided and a reroute will be constructed.

SA5-3

To minimize impacts on paleontological resources that may be uncovered during pipeline construction, Constitution should follow the procedures provided in its Discovery Plan and notify DCNR's Bureau of Topographic and Geologic Survey (BTGS) or the New York State Paleontologist and other relevant agencies. The Discovery Plan's procedures include:

- Shutdown of construction activities if sensitive paleontological resources are encountered;
- Notification of Constitution's cultural resource consultant (URS), who would contact the FERC and the Pennsylvania Historical and Museum Commission (PHMC), or the New York Office of Parks, Recreation, and Historic Preservation (OPRHP) as applicable;
- Adherence to the FERC and the PHMC or the OPRHP instructions regarding stabilization of the area (if necessary); and
- Consultation with the FERC and the PHMC or the OPRHP to determine and implement any additional mitigation measures deemed necessary.

The Bureau of Topographic and Geologic Survey suggests a few corrections or additions to Constitution's Discovery Plan mentioned above. While the bureau would be notified in the event of a paleontological discovery, it is important to ensure that the BTGS is also a key part of each Discovery Plan step and therefore suggests that notification of the bureau be added to each step.

The Bureau of Topographic and Geologic Survey suggests that Constitution should provide key stakeholders with a schedule of construction dates and provide updates regularly to BTGS, which would serve two purposes. First, BTGS will know the schedule should a contact for a find be necessary. If BTGS is aware of the schedule, it can respond more rapidly if needed. Secondly, BTGS may wish to visit the site to collect information along the trench. These are opportunities to gather otherwise unavailable information.

If you have questions, concerns, or would like to discuss DCNR's comments further, please contact me.

SA5-5

We recommend that the commentor coordinate directly with Constitution regarding its request to obtain an updated schedule prior to the start of construction as well as regular updates during construction. These updates would facilitate the Bureau of Topographic and Geologic Survey's rapid response to unanticipated paleontological finds and to allow for data collection along the trench if applicable.

STATE AGENCIES

SA5 – Pennsylvania Department of Conservation and Natural Resources – Office of Policy and Planning (cont’d)

20140408-5003 FERC PDF (Unofficial) 4/7/2014 5:36:44 PM

SA5-3  
cont'd


Sincerely,  
Rebecca K. Oyler

# STATE AGENCIES

## SA6 – State of New York Office of the Attorney General

S-132

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
ENVIRONMENTAL PROTECTION BUREAU

April 16, 2014

Via Electronic Submission

The Honorable Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
Room 1A East  
888 First Street, N.E.  
Washington, D.C. 20426

Re: Electronic Filing:  
Constitution Pipeline Co, LLC- Docket No. CP13-499-000,  
New York State Office of the Attorney General  
Comments on Draft Environmental Impact Statement

SA6-1 | Dear Secretary Bose:

Enclosed is the New York State Office of the Attorney General's comments on the Draft EIS in the above-referenced proceeding, submitted by electronic filing. Please feel free to contact me regarding any questions that you may have.

Respectfully submitted,

John Sipos

John Sipos  
Assistant Attorney General

Enclosure

copies: FERC electronic service list  
Kevin Bowman, FERC

THE CAPITOL, ALBANY, N.Y. 12224-0341 • PHONE (518) 473-3105 • FAX (518) 473-2534 • WWW.AG.NY.GOV

SA6-1

The projects’ potential impacts, as well as impact avoidance, minimization, and mitigation measures, regarding methane gas leakage, greenhouse gases, and climate change are discussed in sections 4.11 and 4.13 of the EIS. The Commission did not require Sabine Pass to use an alternative design for turbines to reduce greenhouse gases; rather, Sabine Pass voluntarily chose its type of turbine, which, in that case resulted in reduction of greenhouse gases at the expense of other pollutants. Constitution and Iroquois would be required to comply with permitting requirements, and ultimately would be responsible for selecting their equipment and designs.

STATE AGENCIES

SA6 – State of New York Office of the Attorney General (cont’d)

S-133

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM

SA6-1  
cont'd

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of:

Constitution Pipeline Company, LLC

For a Certificate of Public Convenience and Necessity.

Docket Nos.: CP13-499-000  
CP13-502-000

COMMENTS OF THE  
NEW YORK STATE ATTORNEY GENERAL'S OFFICE  
ON THE FEDERAL ENERGY REGULATORY COMMISSION'S  
DRAFT ENVIRONMENTAL IMPACT STATEMENT

Submitted: April 16, 2014

Proposed Action

On June 13, 2013, Constitution Pipeline Company, LLC ("Constitution") and Iroquois Gas Transmission System, L.P. ("Iroquois") filed applications with the Federal Energy Regulatory Commission ("FERC") under Section 7(c) of the Natural Gas Act, 15 U.S.C. § 717f(c), seeking a certificate of public convenience and necessity in order to construct, install, own, operate and maintain certain interstate natural gas pipeline facilities in Pennsylvania and New York. More specifically, Constitution's proposal would involve the construction and operation of 124.4 miles of new natural gas pipeline and associated equipment and facilities in Pennsylvania and New York. Constitution also proposes to construct and operate two new metering and regulating ("M&R") stations, two tie-ins and 11 mainline valves ("MLVs"); and to

1

STATE AGENCIES

SA6 – State of New York Office of the Attorney General (cont’d)

S-134

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM	
SA6-1 cont'd	<p>install a pig launcher and receiver at the M&amp;R stations.<sup>1</sup> Iroquois proposes to construct and operate a new compressor facility adjacent to its existing Wright Compressor Station located in Schoharie County, New York, with associated modifications of its existing facilities. The compressor facilities, which are necessary for the movement of gas through the project, will include turbines and other components that will result in air emissions. If authorized, the Constitution and Iroquois projects (collectively referred to as “the Project”) will result in the construction of an 124-mile 30-inch diameter pipeline with a maximum allowable operating pressure of 1,480 per square inch capable of providing up to 850,000 dekatherms per day of natural gas from Susquehanna County, Pennsylvania to markets in New York and New England via connections with existing pipelines located at the Wright Compressor Station. The proposed pipeline will run from northeastern Pennsylvania to eastern New York State, with the majority of pipeline located in New York.</p> <p style="text-align: center;"><u>Summary of Comments</u></p> <p>As discussed in greater detail below, the Commission’s February 12, 2014 Draft Environmental Impact Statement (“DEIS”) is incomplete in material respects. The document’s conclusory statements regarding the “negligible” or “minimal” amounts of methane and other greenhouse gas (“GHG”) emissions associated with the Project, and the proposed conclusion that such emissions are not likely to have a significant impact on air quality or climate change, in the absence of supporting data or analysis, fails to satisfy the critical, “hard look” required under the</p> <hr/> <p><sup>1</sup> M&amp;R stations measure the transfer of gas from one pipeline system to another. MLVs are used to close the pipeline and stop the flow of gas for maintenance or safety purposes. Pigs are internal tools that can be used to clean and dry a pipeline and/or to inspect it for damage or corrosion.</p> <p style="text-align: center;">2</p>

# STATE AGENCIES

## SA6 – State of New York Office of the Attorney General (cont'd)

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM

SA6-1  
cont'd National Environmental Policy Act ("NEPA"). Moreover, consistent with mandates under NEPA and the National Gas Act ("NGA") that the Commission consider mitigation measures, FERC should consider methane emission reduction technologies or practices as mitigation options for the Project, consistent with its recent approach to GHG mitigation in the Sabine Pass project. *See Sabine Pass Liquefaction, LLC Sabine Pass LNG, L.P., Order Denying Rehearing and Stay*, 140 FERC ¶ 61076, \*9-10 (2012). Finally, FERC's rejection of Project pipeline

SA6-2 routing option Alternative M, which would locate portions of the proposed pipeline adjacent to Interstate 88 and thereby reduce forest and other natural resource impacts – as well as potentially reducing the exercise of eminent domain – is premature in the absence of further studies to examine whether certain segments of Alternative M can be modified to increase feasibility.<sup>2</sup>

### Regulatory Framework

SA6-3 National Environmental Policy Act

The National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-37, requires all federal agencies to examine environmental impacts that could be caused by their discretionary actions. As a federal agency, the FERC must comply with NEPA. *Calvert Cliffs Coordinating Comm. v. U.S. Atomic Energy Commission*, 449 F.2d 1109 (D.C. Cir. 1971); 18 C.F.R. Part 380. As made clear in the regulations promulgated by the President's Council on Environmental Quality ("CEQ"), NEPA was designed to "provide a full and fair discussion of significant environmental impacts and shall inform decision makers and the public of the reasonable

<sup>2</sup> The Attorney General's Office takes no position on whether the Commission should or should not approve construction and operation of the Project.

SA6-2 See the responses comments SA4-1 through SA4-4 and section 3.4.1.2 of the EIS regarding alternative M.

SA6-3 The commentator's discussion of NEPA and the Natural Gas Act is noted. FERC staff reviews Applications for interstate natural gas pipeline projects in accordance with an applicant's stated objective(s) in order to disclose the impacts of a proposal to inform the decisionmakers in accordance with NEPA, the Natural Gas Act, and other governing regulations and requirements. The EIS was prepared in accordance with those guidelines and requirements.

# STATE AGENCIES

## SA6 – State of New York Office of the Attorney General (cont'd)

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM

SA6-3  
cont'd

alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.” 40 C.F.R. § 1502.1. NEPA directs all federal agencies, “to the fullest extent possible” to comply with this policy and, *inter alia*, to use a systematic and interdisciplinary approach in considering environmental issues, and, before taking any major Federal action significantly affecting the quality of the human environment, to generate a detailed environmental impact statement. 42 U.S.C. § 4332(2)(A), (C) and (E). NEPA also requires a comparative analysis of the environmental consequences of the alternatives before the agency. 42 U.S.C. § 4332(2)(C)(iii); 40 C.F.R. § 1502.14(d). Thus, NEPA mandates that the federal action agency take a “hard look” at potential environmental impacts and consider a range of alternatives. *See Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350-52 (1989); 42 U.S.C. § 4321 (purpose of NEPA is “to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man.”); 42 U.S.C. § 4331 (NEPA charges the federal government “to use all practicable means, consistent with other essential considerations of national policy” to “assure for all Americans safe, healthful . . . surroundings.”); *see also* 40 C.F.R. §§ 1508.8, 1508.27.

The EIS is intended to provide the relevant information regarding the costs and benefits of a proposed federal action, and alternatives to the proposed action, to the larger audience that may also play a role in both the decision-making process and the implementation of that decision. *Center for Biological Diversity v. U.S. Dept. of Interior*, 623 F.3d 633 (9th Cir. 2010) (*citing Dep’t of Transp. v. Pub. Citizen*, 541 U.S. 752, 768 (2004)). Publication of an EIS, both in draft and final form, also serves a larger informational role. It gives the public the assurance that the agency has indeed considered environmental concerns in its decision making process,

# STATE AGENCIES

## SA6 – State of New York Office of the Attorney General (cont'd)

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM

SA6-3  
cont'd

and, perhaps more significantly, provides a springboard for public comment. *Robertson*, 490 U.S. at 348-349. Thus, NEPA requires federal agencies to stop and objectively identify the environmental effects of their discretionary actions and consider alternative means to mitigate those effects – before taking any action that may affect the environment.

To that end, an EIS must contain “high quality” information and “accurate scientific analysis” to “ensure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements.” 40 C.F.R. §§ 1500.1(b), 1502.24; *see, e.g., Native Ecosystems Council v. U.S. Forest Serv.*, 418 F.3d 953, 964-65 (9th Cir. 2005) (discussing scientific integrity requirement that “an agency may not rely on incorrect assumptions or data in an EIS”); *New York v. U.S. Nuclear Regulatory Commission*, 681 F.3d 471, 480-81 (D.C. Cir. 2012) (explaining that the federal agency’s analysis “must be thorough and comprehensive.”).

CEQ has promulgated regulations pursuant to NEPA (40 C.F.R. Parts 1500-1508) as has FERC (18 C.F.R. Part 380). Although FERC allows applicants to prepare an initial draft of the environmental review documents, the duty to comply with NEPA rests with the federal agency itself.

### Natural Gas Act

The Natural Gas Act of 1938 delineates FERC’s authority to regulate the interstate transportation and sale of natural gas. 15 U.S.C. §§ 717 – 717z. When deciding whether or not to issue a certificate the Commission examines the environmental impact, other alternatives, technical competence, financing, rates, market demand, gas supply, long-term feasibility, and other issues concerning a proposed project that are relevant to the public interest. Certification



# STATE AGENCIES

## SA6 – State of New York Office of the Attorney General (cont’d)

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM

SA6-3  
cont'd of New Interstate Natural Gas Pipeline Facilities, Statement of Policy, 88 FERC ¶ 61,227, Docket No. PL99-3-00 (Sept. 15, 1999) at 22-23, 27, *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement); *see generally* *Permian Basin Area Rate Cases*, 390 U.S. 747, 791 (1967).

### Comments

SA6-4 Methane is a Potent Greenhouse Gas

Methane is a potent greenhouse gas that comprises nearly nine percent of total U.S. GHG emissions.<sup>3</sup> In 2012, over 22% of U.S. methane emissions were from the natural gas industry, with the transmission and storage sector accounting for the largest percentage (34%) of these emissions.<sup>4</sup> With a global warming potential at least 25 times greater than that of carbon dioxide,<sup>5</sup> methane emissions play an important role in driving climate change. The federal government’s recently-released Climate Action Plan Strategy to Reduce Methane Emissions concludes methane reduction steps will be necessary to help meet the Administration goal of reducing U.S. GHG emissions in the range of 17% below 2005 levels by 2020.<sup>6</sup> Reductions of GHG emissions to such levels are needed to lessen the likelihood of the most severe effects of climate change. Thus, FERC must take a “hard look” at methane and other GHG emissions associated with the Project and consider mitigation options.

<sup>3</sup> See Climate Action Plan: Strategy to Reduce Methane Emissions (Mar. 28, 2014), *available at* <http://www.whitehouse.gov/blog/2014/03/28/strategy-cut-methane-emissions>.

<sup>4</sup> *Id.*

<sup>5</sup> 40 C.F.R. § 98 Appendix A, Table A-1.

<sup>6</sup> Climate Action Plan: Strategy to Reduce Methane Emissions, n. 2 above. New York State seeks to reduce greenhouse gas emissions by 80 percent below 1990 levels by 2050.

SA6-4

Table 4.11.1-5 presents data for greenhouse gases (GHGs) for construction emissions for both the Constitution and Iroquois projects. We have also updated section 4.11.1 regarding methane leakage and vented emissions (i.e., blowdowns) that may occur during operation of the pipeline and the expanded compressor station.

# STATE AGENCIES

## SA6 – State of New York Office of the Attorney General (cont'd)

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM

SA6-4  
cont'd

### Pipeline Emissions

For pipeline emissions, the DEIS states “[o]peration of Constitution’s project would result in negligible GHG emissions...”<sup>7</sup> However, the EIS presents no data or analysis to support this conclusion.<sup>8</sup> Such lack of *any* information, let alone information of “high quality,” is a critical omission, especially given that the use of standard industry pipeline practices and equipment are known to result in the intentional release of methane from natural gas pipelines. Indeed, the DEIS acknowledges that planned blowdown – or venting of methane -- for pipeline maintenance purposes is a routine practice.<sup>9</sup> Without more specific information regarding the anticipated use of blowdowns and other pipeline practices that may result in intentional and non-intentional methane releases, it is premature to determine that pipeline releases associated with the Project pipeline are expected to be “negligible.”

SA6-5

### Compressor Station Emissions

Compressor stations play an important role in the operation of long-distance gas pipelines. Operation of the Wright Compressor Station is expected to generate emissions of a number of regulated air pollutants, including GHGs. Table 4.11.1-6 of the DEIS lists the projected air pollutant emission rates for the existing facility, together with the emission rate for the proposed compressor facility modifications. According to the document, the combined GHG emissions from the existing and proposed compressor facilities, namely 159,044 (144,252

<sup>7</sup> DEIS p. 4-170.

<sup>8</sup> FERC has a legal obligation to verify an applicant’s assertions. See *Coliseum Square Ass’n v. Jackson*, 465 F.3d 215 (5th Cir. 2006).

<sup>9</sup> DEIS p. 4-186.

SA6-5

We do not include all of the base data or supporting calculations for construction emissions into an EIS as they can be very voluminous. The data and calculations are available for public review in the administrative record for the project, which is available on our website. The FERC staff reviewed the air emissions calculations as provided by Constitution and Iroquois. The calculation methodology for Constitution’s construction emissions can be found in Resource Report 9 filed November 13, 2013 at [http://elibrary.ferc.gov/0/idmws/file\\_list.asp?document\\_id=14160901](http://elibrary.ferc.gov/0/idmws/file_list.asp?document_id=14160901). Iroquois’ June 2013 resource reports can be downloaded in an electronic searchable format from e-Library at: [http://elibrary.ferc.gov/0/idmws/File\\_list.asp?document\\_id=14122599](http://elibrary.ferc.gov/0/idmws/File_list.asp?document_id=14122599) with additional emission estimates provided by Iroquois filed on July 26, 2013 at [http://elibrary.ferc.gov/0/idmws/file\\_list.asp?document\\_id=14135901](http://elibrary.ferc.gov/0/idmws/file_list.asp?document_id=14135901).

# STATE AGENCIES

## SA6 – State of New York Office of the Attorney General (cont'd)

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM

SA6-5  
cont'd metric) tpy CO<sub>2e</sub>,<sup>10</sup> qualifies the facility as a “major source” of GHGs subject to regulation under New York’s Title V air permitting program.<sup>11</sup>

The DEIS’s analysis of air emissions associated with the Wright Compressor Station and its air quality impacts is inadequate. According to the DEIS, air pollutant emissions calculations presented in Table 4.11.1-6 were “based on manufacturer data, from emissions factors obtained from EPA’s Compilation of Air Pollutant Emission Factors, and engineering mass balance calculations.” Yet, specific information relating to these data sources appear nowhere in the DEIS. This lack of qualitative and quantitative detail as to how the emissions estimates were derived precludes the N.Y. Attorney General – and presumably, FERC – from evaluating the accuracy of such estimates.

SA6-6 In addition, the DEIS’s determination that operation of the proposed compressor station will result in an insignificant impact is inconsistent with the DEIS’s recognition that the compressor facility will generate an estimated 159,000 (144,252 metric) tpy of CO<sub>2e</sub>. The CEQ’s Draft NEPA Guidance on Climate Change<sup>12</sup> identifies a threshold value of 25,000 metric tpy as warranting greater agency scrutiny for purposes of environmental review. The CEQ Draft Guidance provides that “if a proposed action would be reasonably anticipated to cause direct emissions of 25,000 metric tons or more of CO<sub>2e</sub> GHG emissions on an annual basis, agencies should consider this an indicator that a quantitative and qualitative assessment may be meaningful to decision makers and the public.” While the 25,000 metric tpy is not a threshold

<sup>10</sup> CO<sub>2e</sub> refers to “carbon dioxide equivalent.”

<sup>11</sup> DEIS p. 4-163.

<sup>12</sup> CEQ, Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions dated February 18, 2010.

SA6-6

As stated in section 4.11.1.2 of the EIS, operation of the proposed turbines at Iroquois’ facility would result in the existing Wright Compressor Station becoming a major source of GHGs requiring a Title V permit at start-up of the new compressors. As suggested by the NYSDEC on January 18, 2013, Iroquois included the Title V permit information with its State Facility Permit Application submitted to the NYSDEC in July 2013. The NYSDEC would determine any necessary additional mitigation measures during its permitting process. See the response to comment SA6-1 regarding the Sabine Pass Project.

# STATE AGENCIES

## SA6 – State of New York Office of the Attorney General (cont'd)

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM

SA6-6  
cont'd

level for determining significant effects, FERC has recognized, most recently in the Sabine Pass LNG pipeline matter, that GHG emissions in excess of 25,000 metric tpy warrant further consideration and may even require mitigation. *Sabine Pass*, 140 FERC ¶ 61,076 at 9-10; Sabine Pass Environmental Assessment § 2.7.

SA6-7

Furthermore, with respect to compressor station issues, the DEIS focuses only on the Wright Compressor Station. This narrow scope of review implicates both segmentation and cumulative impact issues. Focusing on the Wright Compressors artificially segments and excludes from the NEPA and NGA review the reasonably foreseeable construction and operation of additional compressor stations to service the project. FERC describes the project's purpose as facilitating the transportation of 650,000 dekatherms per day of gas from Pennsylvania to New England. DEIS at ES-1, 3-1, 4-191. But that 650,000 Dth/d volume is based on a pipeline pressure of 800 to 1,250 per square inch gauge (psig). DSEIS at 4-191. However, the new 30-inch diameter pipeline could accommodate a maximum allowable operating pressure of up to 1,400 psig, which in turn would allow the transportation of 850,000 Dth/d of gas. DSEIS at 2-1, 2-32, 4-203.<sup>13</sup> To allow the pipeline to operate at its maximum designed pressure, would require additional the use of additional compressor capacity. The EIS should examine the environmental impacts of such additional compressor capacity. The failure to do segments the review of the proposed project's likely impacts.

<sup>13</sup> "Constitution indicated if its pipeline inlet pressures were to be increased to Constitution's maximum operating pressure of 1,440 psig, then the maximum volume that the pipeline would be able to transport would be 850,000 Dth/d, assuming there were no other constraints at the delivery point. This scenario would possibly allow Constitution to deliver an additional 200,000 Dth/d of natural gas beyond the level currently proposed." DEIS at 2-32 – 2-33. *Compare with* DEIS at 4-191 (referencing pressure range from 800 to 1,250 psig).

SA6-7

The maximum pipeline capacity reported in section 2.7 of the EIS was determined by Constitution in a theoretical exercise performed at the request of the FERC (and as requested by the NYSDEC) to evaluate whether the Constitution could reasonably serve as a collector line for future gas supplies that may be developed in New York. See the response to comment SA4-6. Constitution would need additional FERC authorization (which would include an environmental review) to increase any volumes above the proposed 650,000 Dth/d. Constitution is not proposing any higher delivery capacity, which ultimately would require additional compressor units. Because there is no proposal to do so, the emissions of any such units are uncertain.

Constitution reported that if it proposed to increase delivery of natural gas to the theoretical maximum of 850,000 Dth/d, then it would have to add approximately 10,000 horsepower of incremental compression at its Central Station along with other system upgrades to handle the increased pressure. In addition, Constitution estimated that Southwestern Energy would also have to add approximately 2,000 horsepower to accommodate a necessary higher receipt pressure at the Sutton Road M&R Station.

# STATE AGENCIES

## SA6 – State of New York Office of the Attorney General (cont'd)

S-142

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM	
SA6-8	<p>The project is designed to connect to other pipelines, which also rely on compressors to move natural gas to the proposed pipeline. Although the DEIS identifies some of these other compressor stations,<sup>14</sup> the DEIS does not discuss their emissions and the means to mitigate those emissions. The DEIS should address such cumulative impacts. These segmented and cumulative impacts could be addressed through available mitigation alternatives – as discussed below.</p>
SA6-9	<p><u>Analysis of Project GHG Emissions Relative to U.S. Emissions</u></p> <p>The DEIS's evaluation of the Project GHG emissions relative to national GHG emissions from all sources is an erroneous comparison.<sup>15</sup> The DEIS states that "[t]he GHG emissions for both construction and operation of the compressor facility are...very small (about 0.002 percent) when compared with the U.S. Greenhouse Gas Inventory." Yet, the DEIS acknowledges that the combined compressor station emissions will constitute a "major source" of GHG emissions under the national air pollution program. Finding that the pipeline GHG contributions are even smaller (about 0.001 percent), the DEIS concludes that "the proposed projects would not significantly contribute to the GHG cumulative impacts."<sup>16</sup></p> <p>The vast array of individual GHG emission sources across the U.S. economy, however, precludes using relative percentages for individual projects to determine significance. Such an approach would impermissibly allow a reviewing agency to find nearly all potential U.S. GHG emission sources insignificant and is contrary to 40 C.F.R. § 1508.7. <i>See Center for Biodiversity v. Nat'l Highway Traffic Safety Admin.</i>, 538 F.3d 1172, 1217 (9th Cir. 2008)(agency rules or</p> <p><sup>14</sup> DEIS, Table 4.13-1; <i>id.</i> at 4-215 – 4-217.  <sup>15</sup> DEIS p. 4-230.  <sup>16</sup> DEIS p. 4-231.</p>

SA6-8

Existing compressor stations in the project vicinity will have undergone the relevant federal and state permitting process and may be subject to pertinent mitigation requirements. Emissions from any recent or reasonably foreseeable compressor stations are discussed in section 4.13.6.10 of the EIS. We have updated section 4.13.6.10 to indicate that emissions from existing and proposed compressor stations in the region as listed in table 4.13-1 may be similar to those as described in section 4.11.1 for the Wright Interconnect Project and that potential impacts would be minimized or mitigated in accordance with the PADEP or NYSDEC permitting requirements.

SA6-9

As stated in section 4.13.6.10, currently, there is no standard methodology to determine how the proposed projects' relatively small incremental contribution to GHGs would translate into physical effects on the global environment. Operation of the new turbines results in the existing Wright Compressor Station becoming a major source of GHGs which requires a Title V permit, although the proposed turbines would still be permitted and regulated as minor sources and minor modifications with regard to emission controls and other requirements. While BACT is not required for the proposed turbines, the pollutant emission concentrations and rates proposed by Iroquois are as strict as BACT requirements. Using low NO<sub>x</sub> turbine combustors, low emission levels would be achieved with normal engine maintenance and recommended operation using pipeline quality natural gas. Permitted emission limits would be monitored through performance testing for the turbines.

# STATE AGENCIES

## SA6 – State of New York Office of the Attorney General (cont’d)

S-143

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM	
SA6-9 cont'd	actions might have an “individually minor” effect on the environment, but are “collectively significant actions taking place over a period of time”). <sup>17</sup>
SA6-10	<p><u>Methane Mitigation</u></p> <p>The DEIS’s omission of any consideration of mitigation options for methane and other GHG emissions from the Project pipeline and Wright Compressor Station is a material deficiency, and is inconsistent with the Commission’s recent approach to mitigation, even in a case where “significant” GHG impact is unlikely. In the matter of Sabine Pass, FERC performed an environmental assessment for a proposal to construct and operate a natural gas liquefaction and export facility in Cameron Parish, Louisiana. There, FERC examined, among other things, GHG emissions associated with the new facility. Sabine Pass, Environmental Assessment, § 2.7. Although FERC determined that the GHG emissions of the Sabine Pass project did not rise to the level of “significance” warranting a full EIS, it nonetheless identified and required the applicant to comply with mitigation measures to reduce GHG emissions, including the selection of turbines which have a better thermal efficiency and reduced CO2 emissions. <i>See Sabine Pass</i>, 140 FERC ¶ 61,076 at 9-10. The <i>Sabine Pass</i> decision demonstrates the ability to mitigate methane emissions and should inform the regulatory and decisional process for the Constitution project.</p> <p>Given the extent to which the GHG emissions from the Project are expected to far exceed the CEQ Guidance’s 25,000 metric tpy GHG emissions threshold, the DEIS should have, at a</p> <hr/> <p><sup>17</sup> CEQ regulations (40 C.F.R. § 1508.7) define cumulative impacts to include:</p> <p>the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.</p> <p>11</p>

SA6-10 See the response to comment SA6-1 regarding the Sabine Pass Project. We have updated sections 4.11.1 and 4.13.6.10 regarding methane leakage that may occur during operation of the facilities.

STATE AGENCIES

SA6 – State of New York Office of the Attorney General (cont’d)

S-144

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM	
SA6-10 cont'd	<p>minimum, identified and considered methane mitigation measures appropriate for the Project.</p> <p>The NGA and NEPA require FERC to acknowledge the potential impacts and to identify alternatives to mitigate such impacts. Clearly, it is within FERC's broad authority to require the applicant to implement mitigation practices.</p> <p>Here, the DEIS should consider a variety of mitigation options. For example, the U.S. Environmental Protection Agency (USEPA) Natural Gas STAR program identifies a number of cost-effective methane reduction technologies and practices for the natural gas industry, with estimated payback values.<sup>18</sup> Similarly, a recent report by ICF International on the economic analysis of methane emission reduction opportunities in the U.S. oil and gas industry identifies a range of cost-effective technologies and practices to mitigate methane releases, including emissions from blowdowns and other pipeline venting practices, and compressor station upgrades.<sup>19</sup></p>
SA6-11	<p><u>Routing Alternatives</u></p> <p>The DEIS's rejection of Project pipeline routing option Alternative M, which would locate portions of the proposed pipeline adjacent to Interstate 88 and thereby reduce forest and other natural resource impacts, is premature in the absence of further studies to examine whether certain segments of Alternative M can be modified to increase feasibility.<sup>20</sup> Co-locating</p> <hr/> <p><sup>18</sup> See <a href="http://www.epa.gov/gasstar/tools/recommended.html">http://www.epa.gov/gasstar/tools/recommended.html</a>.</p> <p><sup>19</sup> ICF International, March 2014, Economic Analysis of Methane Emission Reduction Opportunities in the U.S. Onshore Oil and Natural Gas Industries.</p> <p><sup>20</sup> Interstate 88 is an intrastate Interstate Highway located within the State of New York. It extends for 117 miles in a northeast-southwest direction from an interchange with I-81 north of Binghamton to an interchange with the New York State Thruway (I-90) west of Schenectady. The number I-88 was assigned in 1968, and construction of the highway began soon afterward. The first section of I-88 opened in the early 1970s, and the last piece of the freeway was finished in 1989.</p>
12	

SA6-11 See the responses comments SA4-1 through SA4-4 regarding alternative M.

# STATE AGENCIES

## SA6 – State of New York Office of the Attorney General (cont’d)

S-145

20140416-5100 FERC PDF (Unofficial) 4/16/2014 12:15:29 PM

SA6-11  
cont'd

portions of the pipeline along the already existing I-88 corridor would utilize existing public rights of way, minimize impacts on “greenfields” and would be consistent with New York State policy encouraging the building of new utility infrastructure in existing public rights of way in order to preserve local communities and natural resources.<sup>21</sup> Additionally, the Federal Highway Act of 1968 provided funding for I-88, and land was acquired to facilitate the highway’s construction. Alternative M could also reduce contested condemnation procedures against New York citizens.

Conclusion

The N.Y. Attorney General’s Office seeks to ensure that, if approved, the Project avoids or minimizes adverse impacts to New York residents and to the State’s environmental resources. FERC should further evaluate the Project’s methane emissions impacts, consider appropriate mitigation options and assess alternative routing of the pipeline in order to minimize the Project’s environmental impacts.

Respectfully submitted,

*John Sipos*

\_\_\_\_\_  
Lisa S. Kwong,  
Isaac Cheng,  
John Sipos  
Assistant Attorneys General  
New York State Office of the  
Attorney General  
The Capitol  
Albany, New York 12224  
518-402-2251

<sup>21</sup> See Governor Andrew Cuomo’s Agenda Outline for 2014, *available at* <http://www.governor.ny.gov/press/01082014-agenda-outline-for-2014>.



# STATE AGENCIES

## SA7 – NYS Department of Environmental Conservation

20140430-5452 FERC PDF (Unofficial) 4/30/2014 3:38:06 PM

**New York State Department of Environmental Conservation**  
**Office of General Counsel, 14<sup>th</sup> Floor**  
625 Broadway, Albany, New York 12233-1500  
**Phone:** (518) 402-9185 **Fax:** (518) 402-9018  
**Website:** [www.dec.ny.gov](http://www.dec.ny.gov)



Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, D.C. 20426

April 30, 2014

Ms. Jodi M. McDonald, Chief  
Regulatory Branch,  
US Army Corps of Engineers  
New York District, CENAN-OP-R  
Upstate Regulatory Field Office  
Buffington Street, Bldg. 10, 3rd Floor  
Watervliet, New York 12189-4

Re: FERC Docket Nos. 13-499-000, CP 13-502-000, Constitution Pipeline Project and  
Wright Interconnect Project/ NYSDEC Comments, Draft Environmental Impact  
Statement

Dear Secretary Bose and Ms. McDonald,

SA7-1 The New York State Department of Environmental Conservation (NYSDEC or Department) respectfully submits the following comments on the Draft Environmental Impact Statement (DEIS) submitted by the Federal Energy Regulatory Commission (FERC) on behalf of Constitution Pipeline Company, LLC and Iroquois Gas Transmission System, LP (collectively, Applicant or Constitution). Specifically, the comments relate and require amendment to Section 4.11, Air Quality and Noise.

**Section 4.11, Air Quality and Noise.**

1. The DEIS generally does not provide sufficient detail on pollutant emission calculations. The DEIS should, at a minimum, refer to the detailed pollutant emission calculations contained in the Title V application, noting the application ID. The full Title V application should be included as an appendix to the DEIS.

SA7-2 **Section 4.11.1.1, Existing Air Quality.**

2. Page 4-159 of the DEIS states: "CH<sub>4</sub> has a GWP of 25, and N<sub>2</sub>O has a GWP of 298," with a footnote that states, "[o]n November 29, 2013 the EPA revised GWPs for GHGs to reflect more accurate GWPs from the Intergovernmental Panel for Climate Change's Fourth Assessment Report to better characterize the climate impacts of individual GHGs and to ensure continued consistency with other U.S. climate programs, including the Inventory of U.S. Greenhouse Gas Emissions and Sinks." This information should be updated to comply

SA7-1 Section 4.11.1 of the EIS has been revised to include reference to the NYSDEC air permit Application filed by Iroquois on July 26, 2013 which is available at [http://elibrary.ferc.gov:0/idmws/file\\_list.asp?document\\_id=14135901](http://elibrary.ferc.gov:0/idmws/file_list.asp?document_id=14135901).

SA7-2 This comment was withdrawn by the NYSDEC in its subsequent letter dated May 14, 2014.

# STATE AGENCIES

## SA7 – NYS Department of Environmental Conservation (cont'd)

20140430-5452 FERC PDF (Unofficial) 4/30/2014 3:38:06 PM

SA7-2  
cont'd with New York State regulations 6 NYCRR Subpart 231-13, Table 9, which uses methane (CH<sub>4</sub>) GWP of 21 and nitrous oxide (N<sub>2</sub>O) GWP of 310 to determine PSD applicability for GHGs.

### Section 4.11.1.2, Air Quality Regulatory Requirements.

SA7-3 3. In the second full paragraph on page 4-162, the list of pollutants for which a more stringent review must be performed to address PSD applicability reviews for the pollutants in attainment should be updated to include NO<sub>x</sub> in addition to CO, PM<sub>10</sub>, PM<sub>2.5</sub>, and SO<sub>2</sub>.

SA7-4 4. The second paragraph of the Title V Permitting discussion on page 4-163 should discuss the potential to emit (PTE) for other regulated pollutants (NO<sub>x</sub>, CO, VOC & HAP) in addition to GHG, and also compare them to the major facility thresholds.

SA7-5 5. On page 4-163, the last sentence in the second paragraph states, "As suggested by the NYSDEC on January 18, 2013, Iroquois included the Title V permit information with its State Facility Permit application submitted to the NYSDEC in July 2013, while the proposed turbines would still be permitted and regulated as minor sources and minor modifications with regard to emission controls and other requirements." This statement mixes major facility and minor project applicability thresholds (Title V & New Source Review) within the same sentence, making its intended meaning confusing.

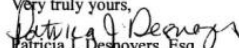
This section should be modified to clarify that a Title V permit application was submitted for the project and that a State Facility permit application was not submitted. NYSDEC staff recommends the following amendment to this section: "Iroquois submitted a Title V permit application for the facility on July 26, 2013. The proposed modification of the facility will be a minor project under the State's new source review (NSR) regulations; however, the facility will become a major facility (as defined at 6 NYCRR Part 201-2.1(b)(21)) for the purposes of Title V permitting."

SA7-6 6. Table 4.11.1-3 on page 4-165 shows the designation for PM<sub>2.5</sub> as "Nonattainment." This should be updated to read "Attainment," as EPA has recently re-designated the attainment status for that pollutant in New York State.

### Section 4.11.1.3, Air Emission Impacts and Mitigation.

SA7-7 7. Table 4.11.1-6 on page 4-169 should be amended to include proposed compressor station emissions of PM<sub>10</sub> and PM<sub>2.5</sub>.

Please feel free to contact me with any questions.

Very truly yours,  
  
Patricia J. Desnoyers, Esq.

cc: Active Party List

SA7-3 The Wright Compressor Station is located in the Northeast OTR and therefore is subject to more stringent NNSR applicability thresholds for ozone precursors (NO<sub>x</sub> and VOC), and less stringent PSD thresholds for the remaining NSR pollutants (CO, PM<sub>10</sub>, PM<sub>2.5</sub>, and SO<sub>2</sub>)

SA7-4 Section 4.11.1.2 of the EIS has been revised as suggested.

SA7-5 Section 4.11.1.2 of the EIS has been revised as suggested.

SA7-6 Table 4.11.1-3 is not a table showing current designations, but rather a table showing the various general conformity thresholds. As discussed in multiple places, the only county with nonattainment status is Schoharie County.

SA7-7 Table 4.11.1-6 has been revised as suggested.

# STATE AGENCIES

## SA8 – NYS Department of Environmental Conservation

### New York State Department of Environmental Conservation

#### Office of General Counsel, 14<sup>th</sup> Floor

625 Broadway, Albany, New York 12233-1500

Phone: (518) 402-9185 Fax: (518) 402-9018

Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joe Martens  
Commissioner

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, D.C. 20426

May 14, 2014

Ms. Jodi M. McDonald, Chief  
Regulatory Branch  
US Army Corps of Engineers  
New York District, CENAN-OP-R  
Buffington Street, Bldg. 10, 3rd Floor  
Watervliet, New York 12189-4

Re: FERC Docket Nos. CP13-499-000, CP13-502-000, Constitution Pipeline Project and Wright Interconnect Project/Comments on Draft Environmental Impact Statement

Dear Secretary Bose and Ms. McDonald,

SA8-1

The New York State Department of Environmental Conservation (NYSDEC or Department) respectfully submits the following supplemental comments on the Draft Environmental Impact Statement (DEIS), Section 4.11 (Air Quality and Noise), relating to methane emissions from the proposed modification to the Wright Compressor Station. Specifically, the Department recommends that FERC address methane emissions in the Final DEIS and in conditions of any subsequent Commission Order. In that context, because methane emissions are a subject that can be addressed in FERC's NEPA review and NYSDEC's regulations do not currently contain specific standards for methane emitted by compressor stations, FERC should not defer methane emissions monitoring or mitigation to NYSDEC's issuance of a Title V permit for the Wright Compressor Station.

Methane is a potent and significant greenhouse gas (GHG) with a global warming potential (GWP) significantly greater than that of carbon dioxide.<sup>1</sup> According to the DEIS, the combined GHG emissions from the existing and proposed compressor stations will be approximately 159,000 tons per year (tpy) carbon dioxide equivalent (CO<sub>2</sub>e), thereby exceeding the major facility threshold and requiring the Applicant to obtain a Title V permit from NYSDEC. The Applicant's calculations also indicate that the Prevention of Significant Deterioration (PSD) GHG Tailoring Rule thresholds would not be triggered, preventing the need for PSD permit. Although the Applicant used the methane GWP 25 in its calculations, which reflects the more updated EPA GWP,<sup>2</sup> the Applicant should provide FERC and NYSDEC with additional details on its emission calculations.

<sup>1</sup> 40 CFR Section 98 Appendix A, Table A-1.

<sup>2</sup> For purposes of the DEIS and FERC's NEPA review, the NYSDEC comment previously submitted On April 30, 2014 regarding the use of methane GWP 21 should be withdrawn.

SA8-1

We have updated sections 4.11.1 and 4.13.6.10 regarding methane leakage that may occur during operation of the pipeline and the expanded compressor station. Regulatory standards for GHGs (typically expressed as CO<sub>2</sub>e), of which methane is a component, are discussed in section 4.11 of the EIS.

S-148

# STATE AGENCIES

## SA8 – NYS Department of Environmental Conservation (cont'd)

SA8-1  
cont'd

As shown on p-162 and in Table 4.11.1-6 of the DEIS, the Applicant evaluated GHGs to determine if PSD GHG Tailoring Rule thresholds would trigger a requirement to obtain a PSD permit. The existing Wright Compressor Station by itself emits 69,304 tons of CO<sub>2</sub>e and is considered a minor source for PSD. Based on Applicant's calculations, the proposed modification to the compressor station would result in 89,698 tons of CO<sub>2</sub>e, which is below the 100,000 tpy threshold of the PSD GHG Tailoring Rule and would not require a PSD permit. NYSDEC requires fugitive emissions to be included in compressor station pollutant potential to emit (PTE) calculations when determining new source review (NSR) applicability under its regulations in 6 New York Codes, Rules and Regulations (NYCRR) Part 231. Accordingly, the Applicant should indicate to FERC and NYSDEC whether the PTE of CO<sub>2</sub>e for the proposed modification to the compressor station includes fugitive emissions such as leakage and vented emissions from the compressor station. If the total figure does not include fugitive emissions, the Applicant should estimate the projected amount of fugitive emissions in the DEIS and its permit application to NYSDEC, recalculate the total CO<sub>2</sub>e, and evaluate whether the PSD GHG thresholds will be triggered.

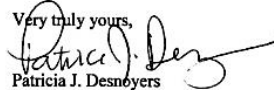
SA8-2

The Department also recommends that the Commission request that the Applicant identify measures that it will take to limit the amount of vented methane emissions during compressor station operation. Further, the Applicant should indicate whether a Directed Inspection and Maintenance program<sup>3</sup> will be included as part of the mitigation measures to reduce vented methane emissions.

Based on the foregoing and because NYSDEC's regulations do not currently contain specific standards for methane emitted by compressor stations, FERC should not defer methane emissions monitoring or mitigation to NYSDEC. As NEPA Lead Agency, FERC is in the unique position to evaluate methane emissions associated with the proposed project and to impose appropriate and rigorous monitoring and mitigation requirements.<sup>4</sup>

Thank you for your continued attention to these important environmental issues and please feel free to contact me with any questions.

Very truly yours,



Patricia J. Desnoyers

CC: Active Party List

<sup>3</sup> <http://www.epa.gov/gasstar/tools/recommended.html>.

<sup>4</sup> See Council on Environmental Quality (CEQ) Regulations for Implementing NEPA, 40 CFR Part 1500-1508, and the Commission's implementing regulations at 18 CFR Part 380. See also, New Jersey-New York Expansion Project (FERC CP11-56-000); Millennium Pipeline Project (FERC CP98-150 et al).

SA8-2

See the response to comment SA6-10. Currently, the Applicants are not implementing a Directed Inspection and Maintenance Program.

# LOCAL AGENCIES

## LA1 – Town of Meredith

TOWN OF MEREDITH  
PO Box 116  
Meridale, NY 13806

Kimberly D. Bose, Secretary  
The FERC  
888 First Street NE, Room 1A  
Washington, D.C. 20426

March 12, 2014

This resolution refers to Docket Nos. CP13-499 and CP13-502; NAN-2012-00449-UBR

### RESOLUTION # 23

WHEREAS, the Constitution Pipeline Company is proposing to build a 124.4 mile pipeline to transport natural gas, and more than 43 miles of it would pass through Delaware County, including two towns bordering the Town of Meredith (Davenport and Franklin); and

- LA1-1 | WHEREAS, it is the duty of the Meredith Town Board to safeguard town roads from externalized costs, minimize property taxes and protect the health and well-being of our residents; and
- LA1-2 | WHEREAS, the Draft Environmental Impact Statement (DEIS) of the Federal Energy Regulatory Commission fails to take into account the potential effects on Meredith; and
- LA1-3 | WHEREAS, access to construction sites in neighboring towns by heavy equipment threatens to cause significant damage to our 82 miles of town roads, nearly all of them unpaved and vulnerable, which would then have to be repaired at Meredith taxpayer expense; and
- LA1-4 | WHEREAS, although Meredith has banned the practice, possible high-volume hydro-fracturing in other towns bordering the Constitution Pipeline might require trucks carrying millions of gallons of water to pass through Meredith, generating heavy traffic, clogging our roads and undermining these roads; and
- WHEREAS, hydro-fracking in neighboring towns may generate water and air pollution that migrates, menacing human health and endangering crop and grassland production in our most important industry, farming; and
- LA1-5 | WHEREAS, blasting of the bedrock along a ridge top on the proposed route in the Town of Davenport less than a mile from Meredith would threaten our watershed and likely disturb the Kortright Creek, which has a history of flooding our hamlet of East Meredith; and
- LA1-6 | WHEREAS, the number and types of emergencies requiring a response from the two Meredith Volunteer Fire and Emergency Departments would probably increase, resulting in higher costs to the fire district's residents for additional training, fuel, maintenance and repairs; and
- LA1-7 | WHEREAS, the DEIS fails to analyze the potential effects on the roads, property value and procurement of homeowners' insurance and mortgages resulting from another proposed pipeline—the Leatherstocking Pipeline, which would traverse the entire Town of Meredith in order to carry natural gas from the Constitution Pipeline to the Town of Delhi.
- LA1-8 | THEREFORE BE IT RESOLVED, the DEIS is incomplete and inadequate to allay the concerns of the Town of Meredith, and the FERC should revise it for reissue and then provide the public with ample time to comment.

LA1-1 As stated in section 4.9.4.1 of the EIS, Constitution would repair any roads damaged by the pipeline project. As stated in section 4.9.7 of the EIS, Constitution would be responsible for any increase in valuation for property tax purposes resulting from operation of the pipeline project. The landowner would not bear responsibility for increased property taxes resulting from installation or operation of the pipeline. Air quality and noise are discussed in section 4.11, and safety is discussed in section 4.12.

LA1-2 The potential impacts and proposed mitigation to all towns in the area of the proposed projects are considered in the EIS. Given the distance (more than 0.5 mile from the pipeline and 3.8 miles from the nearest contractor yard) between the Town of Meredith and the proposed pipeline project, direct impacts are not expected. Impacts on the Town of Meredith, along with other communities located near, but not directly crossed by the projects, are considered in a broader sense and are discussed in section 4.13.

LA1-3 See the response to comment LA1-1.

# LOCAL AGENCIES

## LA1 – Town of Meredith (cont’d)

LA1-4

The status of hydraulic fracturing in both Pennsylvania and New York is discussed in section 4.13. The FERC does not regulate gas well drilling, hydraulic fracturing, or gathering lines. The use of high-volume hydraulic fracturing in New York is currently prohibited and would be dependent upon actions taken by state and local governments and their regulatory agencies. We note that in June 2014 the New York Supreme Court ruled that local governments such as towns can ban high volume hydraulic fracturing through zoning ordinances. The source area for the gas supplies that would be transported by the Constitution pipeline is in Susquehanna County, Pennsylvania. When considering natural gas infrastructure projects that could be developed in the future and the potential for associated cumulative impacts, it is important to note that with an increase in pressure of 1,400 pounds per square inch gauge (psig), the Constitution pipeline’s maximum capacity would be 850,000 Dth/d, which is 200,000 Dth/d (31 percent) greater than the currently proposed level. This relatively modest allowance for increased capacity would likely preclude the use of the Constitution pipeline as a major conduit for newly emerging gas supplies, should they occur and if the proposed projects are certificated. We note that several existing natural gas transmission lines in southern New York, such as Tennessee Gas, Dominion, and Millennium, have not served to facilitate the use of high volume hydraulic fracturing in New York. Marcellus Shale developments, including wells and pipelines, are discussed in the cumulative impacts section (4.13.1) which has been updated with additional information for the final EIS.

The FERC is an independent regulatory agency with specific jurisdiction defined by law that does not permit the Commission to direct the development of interstate natural gas proposals on a regional or nationwide scale. The Commission is tasked, however, with reviewing individual interstate natural gas transmission projects when an established market demand drives a proposal. Given the parameters defining the bounds of the FERC, we have determined that it is neither a prudent use of agency resources, nor within our authority, to conduct a “programmatic EIS” discussing all natural gas development, transmission, and consumption on a regional, or nationwide basis. Furthermore due to the widely varying nature and scope of natural gas projects, we prepare focused environmental analysis for specific proposals, not a generic analysis to be used on all projects.

**LOCAL AGENCIES**  
**LA1 – Town of Meredith (cont’d)**

S-152

- LA1-5      Section 4.3.2.1 of the EIS discusses potential impacts on water resources from blasting. Given the distance between the Town of Meredith and the proposed projects (approximately 0.5 mile for the proposed pipeline and about 3.8 miles from contractor yard 4a), as well as the measures that Constitution has proposed to prevent or minimize potential effects (as further discussed in sections 2.3.1 and 4.1.3) impacts from blasting are not expected. Constitution’s contractor would have to obtain the necessary permits, the charges would be the minimum necessary to fracture the bedrock in the trench, and blasting mats would be used in areas where there is potential for rocks to roll down slope.
- Watersheds and surface waters are discussed in section 4.3.3 of the EIS. Kortright Creek would be crossed by the pipeline near MP 82 as listed in appendix K, but a dry crossing method would be used to minimize impacts on water quality. The potential for flooding, and related potential impacts resulting from the projects and also upon the pipeline itself following construction, are discussed in sections 4.1.3 and 4.3.3. This discussion has been updated for the final EIS.
- LA1-6      As stated in section 4.12.1 of the EIS, Constitution has already coordinated with many emergency services departments along the pipeline route, would develop emergency action plans, and would coordinate with the departments annually during operation to review such plans. Additionally, Constitution has provided and would continue to provide financial assistance for selected emergency responders via its Community Grant Program. These grants have already included emergency responder groups in Delaware County, New York.
- LA1-7      See the response to comment SA2-4 regarding gas service to local areas.
- LA1-8      See the response to comment FA1-1.



# LOCAL AGENCIES

## LA2 – Town of Roseboom

The Town of Roseboom  
126 County Highway 50  
Cherry Valley, NY 13320

A duplicate of this letter  
was also submitted on  
March 19, 2014.

March 13, 2013

Kimberly D. Bose, Secretary  
The FERC  
888 First Street NE, Room 1A  
Washington, D.C. 20426  
Re: Docket Nos. CP13-499 and CP13-502

US Army Corps of Engineers  
New York District, CENAN-OP-R  
Upstate Regulatory Field Office  
1 Buffington Street, Bldg. 10, 3rd Floor  
Watervliet, New York 12189-4000  
Re: NAN-2012-00449-UBR

To Whom it May Concern:

LA2-1 The Town of Roseboom has learned of the proposed high pressure gas *Constitution Pipeline* that will run 124 miles from Susquehanna County in PA, to the Town of Wright in Schoharie County, NY. We wish to make it known to the FERC that there is not enough time to study the EIS and make a comment to the FERC by the April 7<sup>th</sup> deadline. Our town resolution must first be reviewed by the planning board and then voted on and adopted by the Town Board at a Town Board meeting. This means the Town only has a week to review the entire 945 page EIS, before it has to draft a comment that can be submitted before the end of the comment period. Clearly this isn't enough time, on such an important issue as a pipeline that will potentially change the entire nature of our community. Our Town Board meeting is tonight, March 13, 2013 and we won't meet again until next month, April 10th, after the close of the comment period.

Most of the town boards in Otsego County meet once a month. The short comment period makes it extremely difficult, if not impossible for these elected officials to read both the documents, hold a board meeting, draft comments, meet again, revise comments and then take a final vote by the deadline. The current length of the comment period does not permit our elected officials do their due diligence in protecting the residents they represent.

For the above reasons alone, the FERC and the USACE must understand that it is simply not realistic to expect the public to adequately respond to both of these important documents in this short period of time.

LA2-2 In 2012, The Town of Roseboom passed a *Protection of the Rural Environment Law* that affirms and supports the preservation and enhancement of the rural character of Roseboom; a safe, quiet, and scenic environment; a non-industrial, agricultural and tourist based economy. The purpose of our local law, which prohibits heavy industry in our town, is to promote the protection, order, conduct, safety, health and well-being of the residents of the Town of Roseboom and the lands which lie within the Town's borders. It is the purpose of the local Law to protect the citizens of the Town of Roseboom from the human health hazards presented by natural gas exploration, extraction or processing, as evidenced by the recent public statements issued by the medical community. It is the purpose of this local law to uphold and implement the Town of Roseboom Comprehensive Plan.

LA2-1 See the response to comment FA1-1.

LA2-2 The pipeline route would not directly affect Roseboom, New York (it would be located approximately 8 miles away), nor would it traverse Otsego County. One proposed contractor yard would be located in Otsego County in Oneonta, New York. The proposed contractor yard that would be located nearest to the Town of Roseboom would be in Richmondville, Schoharie County, New York, approximately 7 miles away. Given the geographic separation between the proposed projects and Roseboom, it is unlikely that the Town would be directly impacted or that the projects would cause noncompliance with its Comprehensive Plan. See the response to comment LA1-1 regarding damage and repair of roads.

# LOCAL AGENCIES

## LA2 – Town of Roseboom (cont'd)

S-154

LA2-2 cont.	<p>The Town of Roseboom adopted a Comprehensive Plan in May of 2012 that established town policy in guiding future growth and development as follows:</p> <p>A. Protect the Town's natural resources in an effort to assure their sustainability and availability by preventing irreplaceable loss, misuse, and degradation.</p> <p>B. Effectively plan for and manage future changes in land use that allow development while preventing the loss of natural and cultural resources.</p> <p>C. Maintain and restore community character to encourage high quality diversified housing that meets the needs of all age and income groups resulting in neighborhoods that are safe, clean and promote increased residency.</p> <p>D. Promote small business growth in the area to increase the tax base and encourage families to move to and stay in the area.</p> <p>E. Promote and protect our historic structures and landscapes.</p> <p>F. Maintain and protect the Town's roads and bridges. Minimize hazards and congestion of roads within the Town.</p> <p>G. Protect water resources, flood plains and wetlands in an effort to assure their sustainability by preventing irreplaceable loss, misuse and/or degradation.</p> <p>H. Identify, protect and preserve significant historical, archeological and other cultural resources within the Town of importance to the community, state and nation. Protect, preserve and as appropriate, encourage the adaptive re-use of historic properties.</p>
LA2-3	<p>It is because as a Town, we have all these directives to guide us when making decisions on matters affecting the residents of Roseboom, that we need more time to know what we are commenting on. An understanding of the FERC EIS by the Town of Roseboom is important, and we deserve the opportunity to make a meaningful comment. In order to do that, we request that the comment period for the EIS and the Army Corps of Engineers 404 Permit application be extended to give us sufficient time to respond.</p> <p>Thank you.</p> <p>The Roseboom Town Board</p>


LA2-3                      See the response to comment FA1-1.

LOCAL AGENCIES

LA3 – Schoharie County Soil and Water Conservation

20140318-0010 FERC PDF (Unofficial) 03/18/2014

ORIGINAL



Schoharie County Soil and Water Conservation  
108 Holiday Way  
Schoharie, NY 12157  
518-295-8811

FILED  
SECRETARY OF THE  
COMMISSION  
2014 MAR 18 A 10:21  
FEDERAL ENERGY  
REGULATORY COMMISSION

March 10, 2014

Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

Reference numbers: CP13-499-000 and CP13-502-000

To whom it may concern,

LA3-1

I am writing this letter in regards to the installation of the proposed Constitution pipeline in Schoharie County. As the Stanton Family Farm LLC's certified nutrient management planner, I have concerns of the location of the pipeline installation at this time.  
  
The Stanton Family Farm LLC is located in the Town of Middleburgh. Its operation is the largest in the county. It contributes greatly to our local economy by providing jobs, revenue and milk products to our community and New York State. This family farm milks 450 cows along with calves and heifers totaling 925 animals. The farm's land base is 1200 acres. This land base is not only used to produce feed for the animals but to also spread their manure on an almost daily basis. Every acre of this land base is essential to the farm's ability to feed their animals and manage their manure in a sustainable way. Construction of this pipeline on their prime farmland will hinder the production of feed for their animals and utilization of the manure. Over application of manure on other fields will only inhibit future manure spreading. Crop rotations will be over extended making them out of compliance with their certified nutrient management plan (CNMP). It is also important to them to keep an open landscape providing them room for a planned upcoming expansion.  
  
Working with the farm on an almost daily basis, we've had multiple discussions of proposed expansions and current plans for the existing farmstead. They are crowded at their current location to add anymore facilities. They are finishing up multiple best management practices that need to be installed in

LA3-1 See the response to comment SA3-2 regarding measures assessed to avoid, minimize, or mitigate impacts on this farm.

# LOCAL AGENCIES

## LA3 – Schoharie County Soil and Water Conservation (cont'd)

20140318-0010 FERC PDF (Unofficial) 03/18/2014

LA3-1  
cont. accordance with their certified nutrient management plan. They are very proactive and progressive as they work towards being completely implemented. They have received multiple grants to improve the farm (the latest a silage leachate collection system) and comply with their permit.

As we look around the current surroundings of the facility, there is other neighboring idle land that would be less impacted by the installation of the pipeline. The farm owns an extensive amount of land. They had the foresight to purchase their surroundings which has enabled them to expand to the point they are now. Now the farm is planning to build another barn to hold younger livestock which is essential to the farm. They have slowly been building their numbers to increase their herd size from within. Animals out in open feed lot areas are not endorsed or acceptable in most locations to be in compliance with their permit. This stands true at the Stanton farm as there are no areas that would tolerate that kind of "housing" for animals. This being said, it's imperative to keep their options open on their land to further increase their herd and develop appropriate housing and best management practices to stay in compliance.

The farm operates under the New York State Department of Environmental Conservation's (NYS DEC) CAFP permit (GP-0-9-001). This permit requires them to spread their manure agronomically correct in accordance with their certified nutrient management plan (CNMP). The CNMP is based on standards set forth by the Natural Resource Conservation Service (NRCS) standard # NY 312. In order to comply with the permit they are under penalty of law to follow the CNMP. The permit states that it is the farm's duty to comply (part VII, section A) with all conditions of the general permit. Any noncompliance constitutes a violation of the Environmental Conservation Law and is grounds for: an enforcement action (up to \$37,500 per day); loss of authorization under the general permit and/or denial of a permit renewal application.

As you have read moving the pipeline would truly benefit not only this farm but the community as well. This farm provides a lot business to the area in terms of jobs, tax base, and of reinvestment into the community. The pipeline needs to be installed in the least restricting area possible for this farm to insure its viability for its family and the community.

Please feel free to contact me with any questions you have on his nutrient management plan.

Thank you,



Lisa Kuehnle, CCA

Certified Nutrient Management Planner

S-156

# LOCAL AGENCIES

## LA4 – Town of Schoharie

20140331-0052 FERC PDF (Unofficial) 03/31/2014

<b>Eugene Milone</b> Supervisor <b>Pamela Foland</b> Clerk/Collector <b>Dan Weideman</b> Highway Superintendent	<b>Town of Schoharie</b> 300 Main Street * PO Box 544 Schoharie, NY 12157 Tel. (518) 295-7677 Fax (518) 295-6570	<b>Alan Tavenner</b> Richard A. Sherman Matt Brisley James P. Schultz Town Council Members Kenneth C. Knutson Frederick Kennedy, Sr. Town Justices
--	--	---

March 24, 2014

**Ms Kimberly D. Bose, Secretary**  
**Federal Energy Regulatory Commission**  
888 First Street, NE  
Washington, D.C. 20426

Re: Docket Numbers: CP13-499, CP13-502 and NAN-2012-00449-UBR  
Comment: The failure to address foreseeable risks of installation across  
Extensive region of Karst-based municipal watershed.

Dear Ms. Bose:

LA4-1 As Town Supervisor, I'm concerned that the environmental assessment did not discuss any of the problems that might develop for our residents caused by blasting and trenching across the karst-based Barton Hill watershed in our Town of Schoharie, Schoharie County, NY.

During the Initial Public Comment period, FERC was presented with documents detailing the sensitivities of this region and of consequent enacted prohibitions against the kind of activities required by major pipeline installation.

The only response by FERC to this documentation is a mere conclusory statement concerning alleged distances of the pipeline route from some features of the watershed.

There is no discussion of possible changes in water levels, or pathways, or containments. These foreseeable risks can impact residents all over our Town, given the complicated and sensitive water channels in karst formations. I refer you to the detailed description of these risks provided in a companion comment by the Mayor and Board of the Village of Schoharie.

LA4-2 There is also no discussion of remedies for residents who experience problems. What recourse do they have for remedying interrupted or impure water supply some time following pipeline installation? What recourse do our municipal governments have in the event of such problems? Monitoring and mitigation issues are not discussed.

LA4-3 All of the above omissions represent an abuse of discretion, leading to arbitrary and capricious conclusions.

Sincerely,  
*Gene Milone*  
Gene Milone,  
Supervisor, Town of Schoharie

The Town of Schoharie is the Hub of Schoharie County

ORIGINAL  
RECEIVED  
TOWN OF SCHOHARIE  
MAR 31 PM 12:21  
SECTION OF THE  
SECRETARY OF THE  
FEDERAL ENERGY  
REGULATORY COMMISSION

- LA4-1 Karst terrain, including Constitution's proposed Karst Mitigation Plan, is discussed in sections 4.1.3.6 and 4.1.5 of the EIS. Sections 4.3.3.2 and 4.3.3.5 of the EIS provide information regarding the Barton Hill watershed. As stated in section 4.3.3.5, the proposed pipeline would be more than 0.5 mile from the nearest spring and protective measures would avoid impacts on drinking water sources. In addition, both the Tennessee Gas Pipeline and Iroquois gas pipeline system have operated within the Barton Hill watershed for many years without any known impact on water supply.
- LA4-2 Section 4.3.2.1 of the EIS discusses monitoring and testing of water wells within 150 feet of the proposed workspaces as well as additional testing and expert assessment of wells and springs in karst areas. See the response to comment SA4-9 and SA4-10 for additional information on water quality testing and remediation of issues. Landowners, municipal governments, and other affected parties should contact the pipeline company directly for any issues encountered during or after construction. Section 5 of the EIS contains our recommendation that the Applicants file regular status reports reporting landowner complaints and complaint resolution status. If the affected party concludes that their concerns have not been adequately resolved by the company, they may contact the FERC's helpline via our Dispute Resolution Service at 1-877-337-2237 for assistance.
- LA4-3 The commentator's statements regarding the draft EIS are noted.

# LOCAL AGENCIES

## LA5 – Town of Davenport

Town Of Davenport, Delaware County, New York,  
Registered Intervenor  
11790 State Highway 23  
Post Office Box 88  
Davenport Center, NY 13751-0088  
Dennis J. Valente, Supervisor

March 21, 2014

Kimberly D. Bose, Secretary  
The FERC 888 First Street NE, Room 1A  
Washington, D.C. 20426  
Re: Docket Nos. CP13-499 and CP13-502

US Army Corps of Engineers New York  
District,  
CENAN-OP-R Upstate Regulatory Field  
Office 1  
Buffington Street, Bldg. 10, 3rd Floor  
Watervliet, New York 12189-4000  
Re: Docket Nos. NAN-2012-00449-UBR

**Subject: Davenport Resolution Opposing Permitting of the Constitution Pipeline.**

On March, 18, 2014, the Town of Davenport, NY passed a resolution a copy of which follows:

**TOWN OF DAVENPORT, DELAWARE COUNTY, NEW YORK  
Adopted March 18, 2014**

- LA5-1 TITLE: Opposition to Constitution Pipeline Company, LLC's proposed pipeline route through the town of Davenport, NY.
- WHEREAS, The Town Board of Davenport, NY:
- 1- has learned of a proposed Constitution Pipeline Company, LLC's high-pressure interstate gas pipeline that will run more or less parallel to Interstate 88 in Delaware County affecting approximately 128 properties in Davenport.
- 2- is aware of the risk of significant damage, loss of property, injury and loss of life that can and does occur in leakage from and explosion of high-pressure gas pipelines.
- 3- is concerned with the potential installation of above ground valves and meters along the right of way creating a safety hazard.
- LA5-2 4- is aware that the pipeline right of way fragments habitat, creates a loss of privacy, can be accessed at any time of day or night, is maintained with the use of toxic chemicals used to inhibit vegetation, creating a danger to people, domestic animals and wildlife.
- LA5-3 5- is aware of the significant damage, fire, injury and loss of life, increase in medical costs, loss of homeowners and liability insurance, loss of property value, increased & costly difficulties in obtaining real estate financing, which does occur for people and properties near gas pipelines.

- LA5-1 Safety of the proposed projects is discussed in section 4.12 of the EIS.
- LA5-2 Fragmentation of interior forests is discussed in section 4.5.3 of the EIS. The potential for trespassing and measures used to prevent unauthorized access to property during operation are discussed in section 4.8.3 of the EIS. Herbicides that may be used to control invasive plant species would be applied according to the manufacturer's guidelines and in compliance with applicable agency recommendations. Typically, permanent rights-of-way are maintained by mowing, not herbicide application.
- LA5-3 See the response to comment LA5-1 regarding safety of the proposed projects. Insurance, property value, and mortgages are discussed in sections 4.9.5 and 4.9.6 of the EIS, and these sections have been updated with new information.

# LOCAL AGENCIES

## LA5 – Town of Davenport (cont'd)

S-159

LA5-4	6- is aware that this pipeline is an "open access" pipeline, as required by Federal law.
LA5-5	7- is aware that there will be compressor stations at access points which create a constant source of loud noise, bright light and noxious air pollution, and carry the risk of fire and explosion.
LA5-6	8- is aware that shale gas piped from the Marcellus formation in Pennsylvania contains high levels of radon, thus creating a possible health hazard, where used and near compressor stations and vents.
LA5-7	9- believes that the revenue projected for landowners and the town of Davenport will be far less than the social, environmental and economic damage to follow due to increased maintenance costs, storm runoff damage, insurance costs and loss of a tourist and agricultural based economy.
LA5-8	10- believes that a gas pipeline crossing approximately 128 properties will result in considerably lower values for those properties, and many more properties nearby, thus substantially reducing Davenport's tax base, and raising the taxes on the remaining properties.
LA5-9	11- affirms and supports the preservation and enhancement of the rural character of Davenport; a safe, quiet, and scenic environment; a non-industrial agricultural and tourist based economy.
LA5-10	12- is aware that most if not all local landowners will not benefit from the use of gas to heat their homes, as Constitution Pipeline Company, LLC, will not make gas available to them.
LA5-11	13- believes that a pipeline running through Davenport will inhibit potential property buyers, will lower property values, and inhibit sale of properties.
LA5-12	<p>14 - is aware that the Federal Energy Regulatory Commission [FERC] is currently accepting comments to satisfy its obligation to scope environmental impacts of the proposed pipeline, which require federal review; now, therefore, be it:</p> <p>15- has conducted a survey of all Davenport landowners, resulting in 77% opposed to the pipeline.</p> <p>16- has conducted a survey of Davenport landowners directly on the proposed pipeline route, resulting 87% opposed to the pipeline, now, therefore, be it</p> <p>HEAR BY RESOLVED, by the Town Board of Davenport, that it opposes Constitution Pipeline Company, LLC's pipeline.</p> <p>HEAR BY RESOLVED, by the Town Board of Davenport, that any action by Constitution Pipeline Company, LLC to route its proposed line through Davenport will meet vigorous opposition to avoid this significant hazard placed within our jurisdiction.</p> <p>Submitted on behalf of the Town Of Davenport, NY, Registered Intervenor Dennis Valente, Supervisor</p>

LA5-4 See the response to comment SA2-4 regarding gas service to local areas.

LA5-5 The proposed projects would require modification of the existing Wright compressor station. No other compressor stations are proposed as part of the Constitution Pipeline and Wright Interconnect Projects. Air and noise associated with the proposed Wright Interconnect facilities is discussed in section 4.11 of the EIS. The Wright Interconnect Project would be located approximately 31 miles from Davenport, New York.

LA5-6 The discussion of radon in section 4.11.1.4 of the EIS has been revised. We concluded that due to decay, processing, improved ventilation, and improved burner technology that the risks of radon associated with natural gas are small. The FERC has no regulatory authority over indoor air quality.

LA5-7 The commentator's statement regarding revenue is noted. The primary features of the proposed pipeline near the Town of Davenport, New York during operation would be a grassy, maintained permanent right-of-way that would be 50 feet wide, along with a proposed mainline valve near MP 82. This right-of-way would not cause long-term social, environmental, or economic damage to the Town, nor would it significantly impact tourism (EIS section 4.9.2) or agriculture (EIS sections 4.2 and 4.8). The right-of-way would be restored and revegetated in a manner to prevent long-term stormwater runoff issues (section 2.3.1). Any damage to roads caused by Constitution during construction would be repaired, and no long-term damage would occur during operation. See the response to comment LA5-3 regarding insurance.

LA5-8 See the response to comment LA5-3 regarding property values. As discussed in section 4.9.7 of the EIS, the long-term positive economic impacts from the pipeline would include an increase in annual property taxes of \$4.9 million in Delaware County, New York. This increase in property taxes paid would benefit the local governments and their budgets annually for the life of Constitution's project. Constitution would be responsible for any increase in valuation for property tax purposes resulting from operation of the pipeline project.

**LOCAL AGENCIES**  
**LA5 – Town of Davenport (cont’d)**

LA5-9	The commentor’s statement regarding preserving the rural character of the Town of Davenport is noted. See the response to comment LA5-7.
LA5-10	See the response to comment SA2-4 regarding gas service to local areas. Although no specific plans have been finalized by Leatherstocking regarding local gas distribution, Leatherstocking indicated in a press release that it was evaluating delivery points in Delaware County, New York.
LA5-11	See the response to comment LA5-3 regarding property values.
LA5-12	The commentor’s statements in opposition of the proposed projects are noted.



# LOCAL AGENCIES

## LA6 – Town of Maryland

20140402-5111 FERC PDF (Unofficial) 4/2/2014 1:52:55 PM

An identical letter was received on 4-7-14 on official letterhead with signature

LA6-1

Peter K Oberacker, JR, Schenevus, NY.  
My Name is Peter Oberacker Jr, I am the Town of Maryland Supervisor and on Monday March 31, 2014 at 6:30 pm a special meeting was held to hear our Constituents and their concerns with a purposed Contractor and pipeline facility located in the Town of Maryland, Parcel # 231.00-1-23.01, 12.19 acres County of Otsego, also known at the "Travis Yard". The following are questions that I have condensed down to what I believe to be the most important and would appreciate answered.

1. What constitutes a Contractor Yard and Pipeyards? Please define.
2. What materials are stored on site?
3. What would be the hours of Operation of said Yard?
4. What would be the purposed product flow to and from said Yard?
5. Who would be our personal contact, and his/her contact information for this purposed Yard?
6. Has a time frame been determined for when this project will commence?

As you can see, our list is not long, but these are the questions I would need answered so as to be able to inform my Constituents from the Town of Maryland and hopefully put some fears to rest.

Thanking you in advance,

LA6-1

Constitution has eliminated the contractor yard referenced by the commentor, Spread 4b, from its project. No other contractor yard(s) are proposed in the Town of Maryland, New York.

# LOCAL AGENCIES

## LA7 – Town of Meredith NY Planning Board

S-162

20140404-5126 FERC PDF (Unofficial) 4/4/2014 1:00:21 PM	
<p>Susan Dapkins, Meridale, NY.          Kimberly D. Bose, Secretary          The FERC          888 First Street NE, Room 1A          Washington, D.C. 20426</p> <p>RE: Constitution Pipeline Docket Nos. CP13-499 and CP13 502; NAN-2012-00449-UBR</p>	
LA7-1	On behalf of the Town of Meredith NY Planning Board, I am writing to express the Board's view that the FERC's DEIS on the proposed Constitution Pipeline is incomplete. We respectfully request that FERC extend the comment period, require further analysis of the project 's adverse environmental impacts and insist upon more stringent mitigation of the impacts of the Constitution Pipeline as it is currently proposed.
LA7-2	
LA7-3	As put forth in its Comprehensive Plan, the Town of Meredith is committed to maintaining its rural character as a farming community and home to residents who work in and around the area, and to a significant number of second homeowners from the New York metropolitan area. Our residents, both full and part time, value the Town's pastoral beauty, clean water and wildlife habitat. Creating a 100' wide swath of destruction on the edge of out town will discourage this kind of homeowner and drive down the value of the Town's real estate. The Town can barely afford to maintain our roads with our current tax base. Coupling reductions in tax potential with the heavy demands of pipeline construction and maintenance on our roads and related infrastructure will further stress the Town's budget.
LA7-4	Currently, there are dozens of corridors already created by power lines and roads. We believe that the DEIS does not adequately address the feasibility of locating the pipeline along the I-88 corridor. The DEIS dismisses this alternative but does not provide clear and complete documentation of the reasons for ruling out this preferable route. Locating the pipeline on existing rights of way, already developed and disturbed, would minimize the huge costs of such development on local communities. Cutting a new 100' wide corridor across our forested ridge tops, just a few thousand feet from I-88, makes no sense.
LA7-5	It is our understanding that the FERC must weigh the public convenience and necessity of the Constitution Pipeline against the environmental damage and taking of private lands for the project. The Board questions whether there are adequate safeguards of the public's interests in this project design. As described in the DEIS, this project in no way guarantees affordable natural gas for domestic customers. Gas traveling through the Constitution Pipeline could eventually be sold on the international market. With current world events putting pressure on natural gas prices, large energy companies would respond to market forces and sell gas to the highest bidder. The profits would go into the hands of large companies and not into the communities that have been exploited. Without restrictions on the export of this gas, the DEIS does not adequately demonstrate the benefit to domestic energy consumers and especially those in the local communities most adversely affected by the Constitution Pipeline.
<p>Susan Dapkins, Chair          Town of Meredith NY Planning Board</p>	

LA7-1	See the response to comments FA1-1 regarding pending information and extension of the comment period.
LA7-2	The commentor's statement regarding additional mitigation is noted. As stated throughout the EIS, Constitution has proposed numerous measures designed to avoid, minimize, or mitigate impacts. In addition, the FERC staff recommended additional mitigation measures as listed in section 5 of the EIS.
LA7-3	See the responses to comments LA5-7 and LA5-8.
LA7-4	The use of existing rights-of-way was considered in evaluation of the pipeline route. Constitution's route would be collocated with existing rights-of-way for approximately 11 miles, or approximately 9 percent of its total length. Two major route alternatives, alternatives K and M, were substantially more collocated with existing easements than the proposed route, but were not considered preferable due to environmental and constructability reasons. Numerous other minor route alternatives with increased levels of collocation were also considered, but also were determined to not be preferable for environmental, constructability, or project feasibility reasons. Alternatives to the proposed project and proposed route are discussed in section 3.0.
LA7-5	As described in section 1.1 of the EIS, the Applicants developed the projects in response to customers' demands and then filed Applications with the FERC for authorization to construct and operate the proposed facilities. The EIS is limited to assessing the potential environmental impacts of the proposed projects. Although the EIS does consider whether alternative actions might meet the customers' demands, the EIS does not consider or reach a conclusion on whether there is a need for the proposed projects. Section 1502.13 of the Council on Environmental Quality (CEQ) regulations implementing the National Environmental Policy Act (NEPA) requires that an EIS "briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." In other words, the EIS states the purpose of and need for a proposed project in order to define the range of alternative actions that the agency can legitimately consider. The determination of whether there is a "need" for the proposed facilities for the purpose of issuing an authorization under section 7 of the Natural Gas Act (NGA) will be made in the subsequent Commission Order granting or denying the Applicants' request for certificate authorization and is based on a balancing of the benefits of the projects against any adverse impacts.

# LOCAL AGENCIES

## LA7 – Town of Meredith NY Planning Board (cont'd)

LA7-5  
(cont'd)

The Commission makes the determination whether a project is in the public convenience and necessity. This evaluation and subsequent decision is based on many factors, including the final EIS and associated recommendations, market analysis, ensuring just and reasonable rates, and engineering analyses. The Commission considers the regional benefits of each project against any adverse impacts. This determination for the Constitution and Iroquois projects has not been made at this time.

See the response to comment SA2-4 regarding local distribution of natural gas from the proposed Constitution pipeline.

The potential for exportation of natural gas is discussed in section 1.3 of the EIS. Constitution has stated that it would deliver natural gas to the existing Iroquois and TGP systems, to ultimately serve markets in New England and New York. We are aware of a possible project being considered by Iroquois [the South-to-North (SoNo) Project] which has not yet been filed with the Commission or entered into FERC staff's pre-filing environmental review. This project involves reversing the flow of natural gas on parts of Iroquois' system. If Iroquois pursues the SoNo project and it is approved, then portions of gas supplied to Iroquois could be displaced to other parts of its system. However, it is nearly impossible, nor practical to track the final destination of any one given molecule of natural gas. While the gas supplied by Constitution could be displaced to the northern parts of Iroquois' system, the capacity created by the project would still be realized. Constitution's Application does not include provisions for the exportation of natural gas. Should exportation facilities downstream of Constitution's project be proposed in the future, then any such proposal would be subject to a new and separate review process from the United States Department of Energy (DOE), the FERC, and all other applicable permitting agencies.

# LOCAL AGENCIES

## LA8 – Village of Schoharie

20140407-5024 FERC PDF (Unofficial) 4/5/2014 10:43:30 AM

Mayor John J. Borst, Schoharie, NY.  
Village of Schoharie  
300 Main Street  
Schoharie, NY 12157

April 5, 2014

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
OP-R  
888 First Street, NE  
Washington, D.C. 20246  
Floor

US Army Corps of Engineers  
New York District CENAN-  
Upstate Regulatory Filed Office  
1 Buffington Street, Bldg. 10, 3rd  
Floor  
Watervliet, New York 12189-4000

Re: Docket Nos. CP13-499 and CP13-502; NAN-2012-00449-UBR

LA8-1 Comments from the Village of Schoharie pertaining to potential impacts to the Barton Hill Watershed and Village Water Supply.

The proposed pipeline path crosses Barton Hill, which is the source of the Village of Schoharie's water supply. The hydrological sensitivity of this region is identified in multiple studies. The sensitivity of the region is further identified in The Town of Schoharie Land use Law, adopted August 15, 2005, that in Section 3.1-5 establishes the Barton Hill Overlay District. " This overlay district has been established because of the sensitive nature of karst areas located in this area of the Town. Ground water is highly influenced by activities and conditions on the surface due to the nature of limestone rock in this area. The establishment of this Overlay area is to control land uses and their location and design so that water quality and quantity are not adversely affected."

Schedule B of the Land Use law contains specific prohibited uses and activities within the Barton Hill Overlay District established due to the sensitive hydrology of the region and the preservation of the quality of the villages water supply.

" Schedule B Barton Hill Natural Resource Protection Overlay Section 1. Application. The rules and regulations set forth in this section shall apply to the springs and aquifer which compromise the ground water source of the public water supply of the Village of Schoharie and known as the Youngs, Dugan, and Truax springs, and any other sources which may be developed in the future to serve as ground water sources of the water supply of the Village of Schoharie."

Due to the sensitivity of this region, land use prohibitions within the aquifer recharge area have been adopted including:

- The use of pesticides and Herbicides
- Underground Storage Tanks and Pipelines
- Excavations or cut-ins, which expose groundwater permanently or during maximum elevation of the water table, or which significantly reduce the thickness of soil cover and thereby ease the entrance of contaminants into the groundwater.

LA8-1 See the response to comment LA4-1. We have revised section 4.1.5 of the EIS to further clarify that Constitution would not park construction equipment overnight, nor would it refuel or service equipment within 200 feet of any karst feature. Additionally, Constitution would apply fertilizers, herbicides, pesticides, or other chemicals at least 200 feet away from sinkholes, waterbodies, springs, and cave openings. We find these measures acceptable to minimize the likelihood of pesticides and herbicides from impacting the groundwater. Further, the pipeline itself would be radiographically tested to ensure all welds are secure, thereby minimizing the likelihood of natural gas liquids from coming into contact with the groundwater.

# LOCAL AGENCIES

## LA8 – Village of Schoharie (cont'd)

S-165

20140407-5024 FERC PDF (Unofficial) 4/5/2014 10:43:30 AM	
LA8-1 cont'd	<p>The Village of Schoharie proposes that the following protections and mitigation actions be taken to protect the Village's Water supply:</p> <ul style="list-style-type: none"> <li>Prohibit the use of Herbicides and Pesticides during construction or subsequent maintenance of the pipeline in the Barton Hill Natural Resource Protection Overlay District.</li> </ul>
LA8-2	<ul style="list-style-type: none"> <li>Due to the sensitive nature of the Karst, prohibit Blasting of Rock for trench excavation in this area; instead require mechanical rock removal. Note that the presence of the existing gas pipelines is likely another good reason to avoid blasting in this area.</li> </ul>
LA8-3	<ul style="list-style-type: none"> <li>Replace the current siphon pipes that withdraw water from the Youngs' Spring; directional drilled bores (2) into the Youngs' Spring cave would replace the three (3) existing siphon pipes, reinforce the existing delivery system, and mitigate some of the potential impacts of the new pipeline construction. See Attachment B for a preliminary design.</li> </ul>
LA8-4	<ul style="list-style-type: none"> <li>Provide for "before and after" monitoring of the Joober Hole and Gages Cavern. Past studies have shown that these caves are in direct contact with the Village's Spring sources. Monitoring should include water level monitoring and post-construction verification that the connections to the Village's Springs Sources are still intact.</li> </ul>
LA8-5	<ul style="list-style-type: none"> <li>Provide escrow funding for the Village to hire a construction observer to monitor construction practices through the Barton Hill Overlay District on the Village's behalf.</li> </ul>
LA8-6	<ul style="list-style-type: none"> <li>Ensure adequate turbidity control measures</li> </ul> <p>Respectfully submitted by:</p> <p>John Borst Mayor of Village of Schoharie</p> <p>C:\Users\jhitchcock\Documents\Drawing1.dwg, 10/29/2013 9:07:56 AM</p> <p>Was not able to attach schematic diagram. Will follow with hard copy.</p>

- LA8-2 As stated in section 4.1.3.8 of the EIS, Constitution would avoid blasting in areas of limestone and karst features.
- LA8-3 As stated in section 4.3.3.5 of the EIS, Constitution would implement protective measures such as its Procedures, HDD Contingency Plan, Blasting Plan, and Karst Mitigation Plan to avoid impacts on drinking water sources. Therefore, we do not anticipate any impacts on public watersheds and reservoirs due to the proposed projects. We do not anticipate that the existing delivery system would be impacted by the proposed projects.
- LA8-4 As stated in section 4.1.5 of the EIS, monitoring would be conducted by Constitution before the start of construction to establish a baseline and would continue through construction at a rate of twice a day when construction is occurring within 2,000 feet of the wells, springs, or groundwater flow path. Gages Caverns and Joober Hole would be within 2,000 feet of the proposed construction, and would be included in Constitution's monitoring.
- LA8-5 The FERC would use monitors to observe construction. The Village may consult directly with Constitution regarding its request for Constitution to fund a construction observer who reports to the Village.
- LA8-6 Constitution would adhere to best management practices as outlined in its ECPs. As stated in sections 4.3 and 4.13.6.2 of the EIS, construction and operation of the proposed projects would likely result in only short-term impacts on water resources. These impacts, such as increased turbidity, would return to baseline levels over a period of days or weeks following construction.

# LOCAL AGENCIES

## LA9 – Rosenthal for Otsego County

20140407-5037 FERC PDF (Unofficial) 4/5/2014 5:42:03 PM

Beth S Rosenthal, Cherry Valley, NY.  
Kimberly D. Bose, Secretary  
The FERC  
888 First Street NE, Room 1A  
Washington, D.C. 20426

US Army Corps of Engineers  
New York District, CENAN-OF-R  
Upstate Regulatory Field Office  
1 Buffington Street, Bldg. 10, 3rd Floor  
Watervliet, New York 12189-400

April 5, 2014

Dear Secretary Bose and Ms. McDonald,

Re: Docket Nos. CP13-499 and CP13-502; NAN-2012-00449-UBR

- LA9-1 By way of introduction, my name is Beth Rosenthal and I am the Otsego County Representative from district 7. Part of my responsibilities as a county legislator is to listen to my constituents on all matters that affect their lives in our county. Many have spoken to me of their concerns regarding the proposed Constitution Pipeline and have written eloquent, well researched and intelligent comments to your agencies during this public comment period. Their concerns of property devaluation, eminent domain, environmental disturbance, methane emissions, the influx of construction workers, and overall safety concerns are the ones that come most readily to mind.
- LA9-2 Further, the proposed build out of natural gas infrastructure in Otsego County as documented with the MOU between Constitution and the Leatherstocking Gas Company LLC is not part of the scope of this DEIS and it is of great concern to me that our own NYCDEC has not reviewed nor have them commented on what appears to be an intensive activity not covered in this DEIS. I concur completely with Ms. Desnoyers of the NYSDEC that more information is needed regarding proposed taps, feeder lines, compressor stations and related facilities.
- LA9-3 On March 26th, Constitution Pipeline submitted additional information to FERC in regards to the necessity of the construction 10-100 foot tall communications towers. This greatly alarms me for Otsego County is in the final phase of upgrading their Emergency Telecommunications System with the build out of new public safety towers and equipment. This project has been years in the making and has cost several million dollars. How will the proposed monopolies affect our emergency communication system? Where is the engineering study for this? Since communication is often difficult in our rural, rugged hills and valleys what will we do as a county if these private structures interfere with our public ones and who will pay for mitigation?
- LA9-4 Here is my final concern: In speaking with local oil and gas executives, the general feeling is that the Marcellus Shale is peaking and within a few years the volume of produced natural gas will be greatly diminished. About the time that the proposed Constitution Pipeline goes live, we will have an over abundance of capacity. What sense does it make then to build this pipeline if it will be obsolete so soon?

Thank you,  
Beth Rosenthal  
Otsego County Representative, district 7

LA9-1

See the response to comment LA5-1 regarding safety, comment LA5-3 regarding property values, and comment FA8-3 regarding eminent domain. The projects' potential impacts, as well as impact avoidance, minimization, and mitigation measures, regarding wildlife (section 4.6.1), water quality (section 4.3), and methane gas leakage (section 4.12) are discussed in the EIS. As stated in section 4.9.1 of the EIS, given the population of the project area (totaling 437,421) and distribution of the construction workforce, the addition of 2,500 workers would not be a significant change.

LA9-2

See the response to comment FA4-46 regarding Leatherstocking's plans for local delivery of natural gas.

LA9-3

See the response to comment SA2-1 and updated information added to section 2 of the EIS regarding the proposed communication towers. Interference with other communication systems is not expected, but would be resolved by Constitution if applicable, with stakeholder assistance from our Dispute Resolution Service if necessary.

LA9-4

Although it is difficult to accurately predict natural gas production trends over the long-term, according to the EIA, natural gas production from the Marcellus Shale has increased substantially and consistently each year since 2010. A graph of production can be viewed at: <http://www.eia.gov/todayinenergy/detail.cfm?id=14091>. Before considering constructing any project, an applicant secures contracts from shippers that can supply the pipeline with gas over the lifetime of the project. Project financiers will generally not consider funding a project unless there is sufficient supply to be economically viable.

# LOCAL AGENCIES

## LA10 – Delaware County Board of Supervisors

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM



### DELAWARE COUNTY PLANNING DEPARTMENT

Highway Department Building • P.O. Box 367 • Delhi, New York 13753  
Phone (607) 746-2944 • Fax (607) 746-8479 • Email: [pln@co.delaware.ny.us](mailto:pln@co.delaware.ny.us)

April 7, 2014

OEP/DG2E/Gas4  
Constitution Pipeline, LLC  
Constitution Pipeline Project  
Iroquois Gas Transmission System, L.P.  
Wright Interconnect Project

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

Re: Docket Nos.: CP13-499-000; CP13-502-000; PF12-9-000

Dear Secretary Bose:

LA10-1

The Environmental analysis and review conducted by the Federal Energy Regulatory Commission (FERC) staff of the Draft Environmental Impact Statement (Draft EIS) was comprehensive and included input from federal and state agencies with expertise in relevant areas.

The Delaware County Board of Supervisors charged the Delaware County Core Group with the review of the Draft EIS. The Core Group is an inter-agency and inter-departmental group of technical staff that works on a variety of county issues including but not limited to: watershed management, energy, planning & land use, agriculture, infrastructure management, etc. On March 26, 2014 the Board of Supervisors passed a resolution authorizing submittal of the Core Groups comments on the Constitution Pipeline and Iroquois Gas Transmission System Projects. (copy attached)

Individual comment letters from Core Group members Delaware County Department of Public Works, Cornell Cooperative Extension and Soil & Water Conservation District are provided as attachments to this document. The Delaware County Planning Department reviewed the Draft EIS and has compiled the following comments on behalf of the Board of Supervisors.

The Board of Supervisors concurs with the Conclusions and Recommendations compiled by the FERC staff and set out in Sections 5.0, 5.1 & 5.2 and hereby requests that Constitution be required to adhere to these recommendations in their entirety.

LA10-1

The commentor's statement regarding FERC's recommendations, including for steep slopes and karst areas, is noted. As stated in section 5.0 of the EIS, the FERC staff recommends the mitigation measures contained in section 5.2 of the EIS be attached as conditions to any authorization issued by the Commission. The decision to include all or a portion of these recommendations is made by the Commissioners.

S-167



# LOCAL AGENCIES

## LA10 – Delaware County Board of Supervisors (cont'd)

S-168

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM	
<div> <div>Delaware County Board of Supervisors Comments of the Draft Environmental Impact Statement for Constitution Pipeline and Wright Interconnect Projects – FERC EIS 0249D Docket Nos.: CP13-499-000; CP13-502-000</div> <div>2014</div> </div>	
LA10-1 cont'd	<p>Areas of particular concern from Section 5.1 CONCLUSIONS OF THE ENVIRONMENTAL ANALYSIS are listed below.</p> <p><u>5.1.1 Geology and Paleontological Resources</u> Delaware County has had several significant flooding events in recent years and construction of the pipeline will take place in areas of steep slopes and cross several waterbodies. Therefore we request and concur with the conclusion of the environmental analysis conducted by the FERC staff that Constitution should be required to employ the mitigation measures they have identified for steep slopes and karst hazard areas.</p>
LA10-2	<p><u>5.1.2 Soils</u> Section 4.2.4 General Impact and Mitigation comprehensively describes Constitution's proposed mitigation measures for soil resources. Constitution would utilize Agriculture Inspectors to monitor field and crop yields for two (2) years following the completion of the project or "until the Agricultural Inspectors declare restoration to be complete". Delaware County requests access to monitoring reports for affected farmland so any potential impacts can be monitored by Delaware County Cornell Cooperative Extension. See comments from the Delaware County Cornell Cooperative Extension for more specific comments regarding agricultural practices, operation and soil resources.</p>
LA10-3	<p><u>5.1.3 Water Resources - Groundwater</u> Delaware County Soil &amp; Water Conservation District provided information for the EIS referenced in the County's comment on FERC's recommendation #19 pg. 5-20. The Soil &amp; Water Conservation District also provided included comments in their submission on the impacts on the Conservation Reserve Enhancement Program if the water recharge zone of the water supply springs are impacted by this project.</p> <p>The Soil &amp; Water District also submitted comments specific to the well testing procedure for pre and post construction. The limiting distance of 150 feet may not be adequate in various topographical locations and should be evaluated on a site specific basis.</p>
LA10-4	<p><u>5.1.4 Wetlands</u> Delaware County would like to note Section 4.4.5 Compensatory Mitigation states that, "Approval of Constitution's mitigation plan is pending review of its application for Section 404/10 Individual Permit to the COE and the NYSDEC". Delaware County staff has reviewed the proposed project submitted by Constitution to COE and NYSDEC and satisfied that if this project is approved; Constitution has mitigated the impact on wetlands in Delaware County.</p>
LA10-5	<p><u>5.1.5 Vegetation</u> In Section 4.5.3 Interior Forest Habitat FERC staff identified the need for Constitution to prepare an Upland Forest Mitigation Plan. Delaware County has identified impacts on forest and forest habitat as a potential impact and should have access to the Plan.</p>
LA10-6	<p><u>5.1.8 Land Use, Recreation, Special Interest Areas and Visual Resources</u> Section 4.8.4.3 Conservation and Other Special Use Lands identifies where the pipeline will intersect with Conservation Reserve Enhancement Program and 480 and 480a Real Property</p>
2	

- LA10-2 Constitution would be required to file copies of crop yield monitoring with the FERC. These reports would be filed on our e-Library system at [www.ferc.gov](http://www.ferc.gov) and would be available to the public.
- LA10-3 The commentor's statement regarding the 150-foot study limit for wells and springs is noted. However, the FERC directs applicants to identify drinking water supply wells and springs within 150 feet of disturbed areas and has concluded that this distance provides adequate protection of the resources, including water supplies that would be related to Conservation Reserve Enhancement Program lands. (FERC 2002).
- LA10-4 The commentor's statement regarding wetland mitigation is noted.
- LA10-5 As recommended in section 4.5 of the EIS, Constitution is coordinating with the FWS and state agencies regarding the draft upland forest mitigation plan. This first draft of this plan has been filed in the public record and can be found on our eLibrary website at [http://elibrary.ferc.gov/0/dmws/file\\_list.asp?document\\_id=14213683](http://elibrary.ferc.gov/0/dmws/file_list.asp?document_id=14213683). Constitution would file any revision to the plan on our eLibrary system.
- LA10-6 Constitution committed to provide compensation to a landowner for costs associated with amending the landowner's forest management plan, if applicable. As part of such an amendment, landowners could request compensation of the services of a professional forester for revisions to their forest management plan. Constitution would compensate landowners as applicable for fees and penalties based on their commitment. If there were any issues with follow through on this commitment, then landowners could contact the FERC's Dispute Resolution Service for assistance. If the project is certificated by the Commission, Constitution will be required to adhere to all of its commitments made in its Application and supplements.



# LOCAL AGENCIES

## LA10 – Delaware County Board of Supervisors (cont'd)

691-S

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM	
<div> <div> Delaware County Board of Supervisors Comments of the Draft Environmental Impact Statement for Constitution Pipeline and Wright Interconnect Projects – FERC EIS 0249D  Docket Nos.: CP13-499-000; CP13-502-000 </div> <div>2014</div> </div>	
LA10-6 cont'd	<p>Tax eligible lands. The potential impacts to the CREP parcels are detailed in the Delaware County Soil and Water District comments provided as part of this submission.</p> <p>The EIS states, "However, actions taken to install the pipeline may require landowners to amend their Forest Management Plans. Constitution would work with landowners to assist with amendments to the Management Plans, including providing maps of the right-of-way and a schedule of operational clearing required for the tract." Delaware County requests that the FERC staff make the recommendation that if a landowner has to engage the services of a professional forester to assist with any amendment to their Forest Management Plan, the cost of this service should be borne by Constitution.</p> <p>The EIS goes on to state, "If a tract is removed from the 480/480a program as a result of the project, Constitution stated that it would negotiate compensation of such fees or penalties, including roll-back taxes and increased annual taxes, as part of the easement agreement for each tract, if applicable." Delaware County request that FERC staff make the recommendation that Constitution be required to pay this compensation to the landowner.</p>
LA10-7	<p><u>5.1.9 Socioeconomics</u></p> <p>In Section 4.9.4.1 Construction Across and Within Roadways and Railroads the Environmental Impact Statement makes reference to a "Residential Access and Traffic Mitigation Plan" and its general components, but the plan is not included in the EIS. The County requests that the Plan be submitted for review by the County Department of Public Works. The comment letter submitted by the Delaware County Department of Public Works describes the components of a 'Road Use Agreement' that the County and affected Towns would require Constitution to adhere to before, during and after construction. Please see the DPW letter for more details.</p> <p>In Section 4.9.5 Property Values and Mortgages FERC provides an analysis of the potential negative impact on property values and mortgages. Although FERC has determined through this research and analysis that this impact is unlikely, if such a claim is made by a landowner, the claim should be included in the weekly status report required by FERC mitigation measure #7 pg. 5-19. Any such complaints should also be included in the quarterly reports required by FERC for the two (2) years following the in-service of the project.</p> <p>In Section 4.9.6 Insurance there was an analysis of the potential impacts on landowner's homeowner insurance. Delaware County elected officials have received many of the same concerns from affected citizens. Delaware should have access to the weekly status reports as required by FERC mitigation measure #7 pg. 5-19. The information will detail any complaints regarding landowners' homeowner insurance policies and any subsequent mitigation measures implemented regarding these complaints. The County should also be given access to the quarterly reports required for the two (2) years following in-service of the project.</p>
LA10-8	<p><u>5.1.12 Reliability and Safety</u></p> <p>Section 5.1.12 Reliability and Safety details a liaison program for emergency services and municipal coordination. Delaware County requests that this program include the Delaware County Department of Public Works and local highway superintendents for the affected towns.</p>

- LA10-7 The Residential Access and Traffic Mitigation Plan can be accessed in the administrative record as part of Constitution's November 2013 supplemental filing of Resource Report 11 at [http://elibrary.ferc.gov:0/idmws/file\\_list.asp?document\\_id=14160901](http://elibrary.ferc.gov:0/idmws/file_list.asp?document_id=14160901). The official weekly and quarterly status reports and quarterly reports would be filed on our e-Library system and would be available to the public and the agencies. The comment is noted regarding property values and mortgages, and we have updated sections 4.9.5 and 4.9.6 of the EIS with new information. The Applicants would be required to include all landowner complaints within their weekly reports.
- LA10-8 The commentator's suggestion to include the Delaware County Department of Public Works and the local highway superintendents is noted, and the commentator may request ongoing direct coordination with the Applicants, which is encouraged by the FERC. As stated in section 5.1.12 of the EIS, Constitution representatives would meet with the emergency services departments of the municipalities and counties along the pipeline facilities on an ongoing basis as part of their liaison programs.

# LOCAL AGENCIES

## LA10 – Delaware County Board of Supervisors (cont'd)

S-170


20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM	
Delaware County Board of Supervisors Comments of the Draft Environmental Impact Statement for Constitution Pipeline and Wright Interconnect Projects – FERC EIS 0249D Docket Nos.: CP13-499-000; CP13-502-000	
2014	
LA10-9	<p><u>5.1.14 Alternatives</u></p> <p>Delaware County supports FERC's determination that the 13 minor route deviation variations need to be assessed and evaluated to determine any potential impacts and identify any needed mitigation measures.</p>
LA10-10	<p><u>5.2 FERC STAFF'S RECOMMENDED MITIGATION</u></p> <p>Planning has determined that the information submitted in the recommended mitigation measures below are of special interest to the Board of Supervisors and the Core Group agencies and departments that have submitted comments. Planning has noted where there is support the mitigation measures as written or if the information should be copied to or available to Delaware County for review prior to construction.</p> <p>#5 pg. 5-18. Delaware County should have access to information detailed in this section most notably for route realignments, new access roads and other areas not previously identified as being impacted by the project. This information should be provided within the designated timeline.</p> <p>#6 pg. 5-18. Delaware County should have access to the Implementation Plan submitted to the Director of OEP; of specific concern is 6(a) describing the construction procedures and mitigation measures as detailed in the EIS.</p> <p>#7 pg. 5-19. Delaware County should have access to the weekly and monthly status reports detailed in this section.</p> <p>#12 &amp; #13 pg. 5-20. If the minor route deviations that could potentially impact resources on parcels as identified in table 3.4.3-1 and the agricultural areas of concern as identified in table 3.4.3-2 cannot avoid these parcels, the assessments submitted to the Secretary should also be made available to Delaware County so the Delaware County Soil &amp; Water Conservation District and Cornell Cooperative Extension can review the assessments for comment.</p> <p>#15 pg. 5-20. Delaware County should have access to and review of the information submitted in this section detailing the mitigation measures for steep slopes and karst areas due to the County's concerns regarding flooding.</p>
LA10-11	#17 pg. 5-20. Delaware County supports the determination that Constitution adhere to a four (4) inch depth in saturated agricultural areas.
LA10-12	#18 pg. 5-20. Delaware County Cornell Cooperative Extension should be consulted regarding soil workability before any agricultural restoration takes place between October 1 and May 15 <sup>th</sup> within Delaware County.
LA10-13	#19 pg. 5-20. The mitigation measure in this section is limited to the areas identified in Pennsylvania. The EIS states, "The Delaware County Soil & Water Conservation District identified several important drinking water springs (2 to 5 gpm) in the project area. While the pipeline project would not impact the springs, it would cross several springs recharge areas. The recharge areas are characterized by having fractured sandstone bedrock, which may

- LA10-9 The commentor's statement in support of the FERC's minor route variation recommendation is noted.
- LA10-10 See the response to comment FA6-6. The information requested would be available to the public and agencies on our eLibrary system for review and comment.
- LA10-11 The commentor's statement in support of the 4-inch rutting depth is noted.
- LA10-12 The commentor's request to include consultation with Delaware County Cornell Cooperative Extension regarding soil workability is noted.
- LA10-13 The Draft Blasting Plan can be accessed in the administrative record as part of Constitution's November 2013 supplemental filing at [http://elibrary.ferc.gov/0/idmws/file\\_list.asp?document\\_id=14160901](http://elibrary.ferc.gov/0/idmws/file_list.asp?document_id=14160901). Any site-specific blasting plans prepared by Constitution and submitted as part of its Implementation Plan would be available on our e-Library system at [www.ferc.gov](http://www.ferc.gov).

# LOCAL AGENCIES

## LA10 – Delaware County Board of Supervisors (cont'd)

S-171

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM	
<div> <div> Delaware County Board of Supervisors Comments of the Draft Environmental Impact Statement for Constitution Pipeline and Wright Interconnect Projects – FERC EIS 0249D  Docket Nos.: CP13-499-000; CP13-502-000 </div> <div>2014</div> </div>	
LA10-13 cont'd	require blasting. Therefore, blasting and contamination are the primary concerns of construction in the proximity of springs." Delaware County should have access to any blasting plan that would be required in these areas and be notified if/when the blasting will occur.
LA10-14	#25 pg. 5-21. FERC has required Constitution to submit a draft Upland Forest Mitigation Plan to address concerns regarding the impacts on sensitive forest land. Delaware County has received several comments regarding the potential impacts on forested parcels from concerned landowners and therefore should have access to the Plan for review.
LA10-15	#28 pg. 5-21. The Blasting Plan required for in-stream blasting should include notification to the County Department of Emergency Services for review and subsequent notice to local emergency service providers.
LA10-16	#29 pg. 5-21. If Constitution determines that water withdrawal is necessary for the Oquaga, Ouleout, Kortright or Schoharie Creeks, the information submitted to NYSDEC regarding these withdrawals should be made available for review by Delaware County.  #36 pg. 5-22. If any of the four (4) un-surveyed structures identified in table 4.8.3-1 that are located within Delaware County are identified as residences, the County should have access to the site-specific plans developed for these parcels.
LA10-17	#39 pg. 5-23. Delaware County supports the use of organic straw/hay for mulch on agricultural land that has been certified organic.
LA10-18	#40 pg. 5-23. Delaware County should review and comment on any impact avoidance, minimization or mitigation plan for specialty crops required in this section for agricultural operations within our County.  #43 pg. 5-23. Delaware County should have access to the weekly status reports that will detail any complaints regarding landowners' homeowner insurance policies and any subsequent mitigation measures implemented regarding these complaints. The County should also be give access to the quarterly reports required for the two (2) years following in-service of the project.
<p>Thank you for the opportunity to comment of the Draft EIS and please contact me if you have any questions.</p> <p>Sincerely,    Nicole Franzese, Director  Delaware County Planning Department  <a href="mailto:nicole.franzese@co.delaware.ny.us">nicole.franzese@co.delaware.ny.us</a> </p>	
5	

- LA10-14 See the responses to comments FA4-28 and LA10-5.
- LA10-15 The commentor's request to include the County Department of Emergency Services in the notification list for in-stream blasting is noted, and the commentor may request ongoing direct coordination with the Applicants, which is encouraged by the FERC.
- LA10-16 Any information provided by the Applicants to the FERC that is not filed as privileged or critical energy infrastructure (CEII) must be filed on our eLibrary system and made available to the public and agencies for review and comment. Any party may review and comment at any time.
- LA10-17 The commentor's statement in support of organic straw/hay is noted.
- LA10-18 See the response to comments LA10-7 and LA10-16. The Applicants would file weekly status reports that would subsequently be posted to our public eLibrary system. Specialty crops are discussed in section 4.8.4 of the EIS.

# LOCAL AGENCIES

## LA10 – Delaware County Board of Supervisors (cont'd)

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM

### DELAWARE COUNTY DEPARTMENT OF PUBLIC WORKS

P.O. BOX 311

DELHI, N.Y. 13753

**WAYNE D. REYNOLDS, P.E.**  
COMMISSIONER

Main Office and Yard  
Page Avenue  
Delhi, N. Y. 13753

April 7, 2014

OEP/DG2E/Gas4  
Constitution Pipeline, LLC  
Constitution Pipeline Project  
Iroquois Gas Transmission System, L.P.  
Wright Interconnect Project

Attn: Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

Re: Docket Nos.: CP13-499-000; CP13-502-000; PF12-9-000

Dear Secretary Bose:

The Delaware County Department of Public Works has reviewed the Draft Environmental Impact Statement for the Constitution Pipeline and Wright Interconnect Projects and provided comments specifically on the road access and transportation impacts.

- The Environmental Impact Statement makes reference to a "Residential Access and Traffic Mitigation Plan" but the plan is not included in the EIS. The DPW requests that the Plan be submitted for our review.
- Constitution needs to enter into Road Use Agreements with Delaware County and the affected Towns. A conceptual agreement has been developed by the Delaware County Department of Public Works and the Town Highway Superintendents will require the Constitution to:
  - Identify roads that the contractors will use for access and transportation during construction. All construction equipment will be restricted to those roads.
  - Provide the affected roadway owner with details on the proposed fixed loads of construction equipment, including axle spacing and axle loads.
  - Pay the municipalities for engineering evaluations of existing culverts and bridges on the affected roads. Based on the loads provided, the municipalities will get a proposal from an engineering consultant to evaluate the loads against the existing infrastructure. The municipality will provide a copy of the engineering proposal to the Constitution and request that they agree to pay for the work. Upon agreement, the municipality will have the consultant evaluate the structures. The consultant will provide a report indicating:
    - Capacity of the structure to carry the proposed load

Main Office: 607-746-2128 Fax 607-746-7212  
Delhi Shop: 607-746-2127 Fax 607-746-2465  
4-7-14 Comments.doc Solid Waste Management Center: 607-865-5805 Fax 607-865-2216

Sidney Center Patrol: 607-369-7651  
(Phone & Fax)

LA10-19

See the response to comment LA10-7.

LA10-20

As stated in section 4.9.4.1 of the EIS, Constitution would repair any roads damaged by pipeline construction and equipment. See the response to comment LA10-8. The commentor's statements regarding a road use agreement requirement are noted and the FERC encourages the applicant to secure and abide by local and county ordinances/permits.

S-172

# LOCAL AGENCIES

## LA10 – Delaware County Board of Supervisors (cont'd)

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM

LA10  
-20  
cont'd

- Modifications or special permit restrictions, if required to ensure that the structure will carry the proposed load.
- Make any structural modifications necessary to the structures to ensure that they are safe for the projected loads.
- The municipalities will video all roads just prior to construction and give the Constitution a copy of the file to document the condition of "good repair". The videos will be used to ensure that the roads are returned to pre-existing state of good repair.
- Delaware County municipalities do not endorse divisible load permits. All loads other than fixed loads shall be legal loads without use of a divisible load permit.
- Provide 24/7 contact for emergency response to road damage for the duration of the construction process.
- Repair roads immediately at no cost to the locals if requested by the County or Towns
- Avoid construction during the spring thaw. Roads are typically posted for 4 tons per axle during that time.
- Provide bonds for road and infrastructure repair to return them to a state of good repair after construction.
- Get all appropriate access permits and comply with stopping and sight distance requirements.

LA10  
-21

- The liaison program described in Section 5.1.12 Reliability and Safety should include the County and Town DPWs so information as to where and when construction will begin, what access routes are being utilized and any other construction and operational details that may be relevant to County or Town infrastructure concerns are conveyed in a comprehensive and timely manner.

Please feel free to contact me with any questions.

Sincerely,



Wayne D. Reynolds, Commissioner  
Delaware County Department of Public Works  
[wayne.reynolds@co.delaware.ny.us](mailto:wayne.reynolds@co.delaware.ny.us)

LA10-21

See the response to comment LA10-8.

Main Office: 607-746-2128 Fax 607-746-7212  
Delhi Shop: 607-746-2127 Fax 607-746-2465  
4-7-14 Comments.doc Solid Waste Management Center: 607-865-5805 Fax 607-865-2216

Sidney Center Patrol: 607-369-7651  
(Phone & Fax)

# LOCAL AGENCIES

## LA10 – Delaware County Board of Supervisors (cont'd)

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM



Cornell University  
Cooperative Extension  
of Delaware County

Resource Center  
34570 St. Hwy 10, Suite 2  
PO Box 184  
Hamden, NY 13782-0184  
t. 607.865-6531  
f. 607.865-6532  
e. [Delaware@cornell.edu](mailto:Delaware@cornell.edu)  
<http://ccedelaware.org>

April 7, 2014

OEP/DG2E/Gas4  
Constitution Pipeline, LLC  
Constitution Pipeline Project  
Iroquois Gas Transmission System, L.P.  
Wright Interconnect Project

Docket Nos.: CP13-499-000; CP13-502-000

LA10-22 Comments on the Agricultural Effects of the Constitution Pipeline-Mariane Kiraly, Cornell Cooperative Extension, Delaware County

The construction of the constitution pipeline will affect agricultural activities such as land preparation, planting, harvesting, grazing, maple production, agro-forestry and forest activities. While compensation will be negotiated for each farmer/landowner, there will be other disruptions that are difficult to quantify, such as time lost, animal upset and fear, loud noise, dust, permanent visual change, and a feeling of loss for the farmer. Money will help mitigate the hard dollar losses, but the farmers will be impacted a great deal with these "other" impacts. Time spent by the farmer during and after construction, farmer anxiety along with animal stress and fear are hard to mitigate with money, but every effort to reduce conflicts, stress, and worry should be a priority.

Construction would be less disruptive during the fall and winter months when animals are housed, there is no crop planting or harvesting, and weather is moist keeping dust less airborne. Clear-cutting the forested portions of farms during the winter is the least harmful when the ground is frozen and there is a good market for the timber. Crews should be considerate of not harming other nearby trees, nearby habitat, farm infrastructure (such as fencing, stone walls and gates) and be quick and efficient. Farmers should also have the option of clear-cutting the property themselves with their own contracted loggers prior to the pipeline construction. Stone fences should be rebuilt as they are historic boundary and pasture markers and have a purpose keeping animals in a certain area, if the farmer so desires.

LA10-23 If construction is on-going during the growing season, 4/1 – 10/31, every effort must be made to drive on designated roads, avoid farm roads, avoid disturbing the farm planting and harvesting, and repair any fences that keep animals in their pastures the same day. Farmers should be alerted when there will be loud noise close to their grazing animals prior to excavation, blasting, or clearing timber. Every effort to minimize time spent by the farmer to mitigate disruption should be made by the construction company, Williams and Cabot. In addition, if animals cannot graze near pipeline construction due to noise, fear, or lost fencing, additional forage will need to be purchased by the farmer with reimbursement by the construction principals to mitigate this loss.

LA10-24 The provisions in NYS Ag and Markets laws regarding Special Crop Productivity Monitoring Procedures along with Seeding, Fertilizing and Lime Recommendations for Gas Pipeline Right of Way Restorations in Farmlands and the Organic Farm Protection Plan need to be adopted and implemented by the Constitution Pipeline principals. No farmer should have to worry that the topsoil has not been put back

LA10-22

Construction crews would not be permitted to disturb any areas outside of the permitted construction right-of-way. Landowners may negotiate directly with Constitution regarding compensation for any impacts on farms, special notifications stipulations for construction, and the ability to clear-cut their own property. In general, we do not support landowners engaging in clearing timber, as only the applicant can be held accountable for staying within approved workspaces or avoiding sensitive resource areas. The construction schedule is dependent upon if and when the Commission decides to grant a certificate, but if certificated the projects' schedule would likely involve winter construction, which is discussed in section 2.3.2.6 of the EIS. Fences and other infrastructure would be repaired or replaced during cleanup and restoration as discussed in section 2.3.1 of the EIS. Constitution would be required to restore stone fences if their location would not interfere with operation of the pipeline.

LA10-23

See the response to comment LA10-22. As discussed in section 4.8.4.2 of the EIS, Constitution has committed to work with individual landowners regarding the appropriate placement of fencing to exclude work areas, establishment of crossing locations for livestock, and relocation of livestock to temporary grazing sites during the construction phase. The FERC Upland Erosion Control, Revegetation, and Maintenance Plan, which Constitution has adopted, includes requirements (section III.C) for applicants to develop grazing deferment plans with willing landowners, grazing permittees, and land management agencies. We find that the most appropriate way to address the commentor's concerns is through continued coordination between the landowner and Constitution. The use of private roads during construction would be part of easement and temporary use negotiations.

LA10-24

As discussed in section 2.3.2.8 of the EIS, Constitution has committed to implement the three plans mentioned by the commentor to further prevent or minimize potential impacts. These plans include: *Special Crop Productivity Monitoring Procedures* (provided by the NYSDAM and adopted by Constitution); *Seeding, Fertilizing, and Lime Recommendations for Gas Pipeline Right-of-way Restoration in Farmlands* (also provided by the NYSDAM and adopted by Constitution); and an Organic Farm Protection Plan. In addition, the FERC Upland Erosion Control, Revegetation, and Maintenance Plan requires the segregation, preservation, and restoration of topsoil in agricultural areas as described in section 2.3.2.8 of the EIS. Implementation of these measures would be monitored by FERC inspectors.



# LOCAL AGENCIES

## LA10 – Delaware County Board of Supervisors (cont'd)

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM	
LA10-24 cont'd	in place properly or that the soil will not grow a crop reasonably after the construction. In reality, it may be more time consuming to be meticulous when sorting soil, but on prime cropland it is especially critical to do this work with trained professionals so that crop production can continue. In the case of maple production, where the pipeline construction clear-cuts sugar maple trees, an effort needs to be made to re-forest another area on the farm with maple trees even if production will be 20 years in the future.
LA10-25	In the case of the 480-a properties, 44.4 acres of committed land will be clear-cut in Delaware County. One of the main goals of the 480-a is to foster hardwood production. The Constitution Pipeline principals must cover the penalties and fees that could arise as a result of removing that land and pay the increased taxes 10 years into the future if needed. Replanting those acres on other parts of the property should be agreed to if the landowner desires.
LA10-26	Heavy use crossings should be placed every 500 feet along the pipeline where significant farm traffic occurs in order to make it easier to cross the pipeline with tractors and equipment without excess driving if the farmer wants them. Also, highly visible property markers at property lines along the pipeline make it easier for landowners to see where their land ends and another begins since existing markers will likely be removed such as fences and stone walls.

LA10-24  
(cont'd)

The commentor's statements regarding replanting maple trees is noted, and landowners may negotiate with Constitution (or contact the FERC staff for assistance, as some already have regarding landowner-specific resources of concern) for avoidance or mitigation measures to account for impacts that they may incur.

LA10-25

As stated in section 4.8.4.3 of the EIS, if a tract is removed from the 480/480a program as a result of the project, Constitution stated that it would negotiate compensation of such fees or penalties (such as roll-back taxes and increased annual taxes) as part of the easement agreement for each tract, if applicable. See the response to comment LA10-24.

LA10-26


We do not require pipeline companies to provide heavy equipment crossings at regular intervals along the pipeline for landowners. However, if a landowner's current or future property use includes the use of heavy equipment (logging or heavy farming equipment); easement negotiations could include the identification and construction of suitable equipment crossings designed to facilitate existing uses and to protect the pipeline. In general, most farm equipment would be able to cross the pipeline right-of-way without the need for a heavy equipment crossing. Constitution would restore all fences and gates to equal or better condition if they have to be removed during construction.

# LOCAL AGENCIES

## LA10 – Delaware County Board of Supervisors (cont'd)

S-176

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM



Delaware County  
Soil and Water Conservation District

44 West Street, Suite 1  
Wallon, New York 13856

Phone 607-865-7161  
FAX 607-865-5535

---

March 19, 2014

OEP/DG2E/Gas4  
Constitution Pipeline, LLC  
Constitution Pipeline Project  
Iroquois Gas Transmission System, L.P.  
Wright Interconnect Project

Re: Comments on agricultural resources impacts, FERC DEIS 0249D for Constitution Pipeline and Wright Interconnect Projects.  
Docket Nos.: CP13-499-000; CP13-502-000; PF12-9-000

LA10-27

This SWCD agrees with and supports Constitution's adoption of specialized plans and procedures provided by the NY State Dept. of Ag & Markets, as described in Section 2.3.2.8 on page 2-26. Close adherence to these procedures during pipeline installation and site remediation have been shown to minimize most impacts to agricultural lands.

The DEIS has recognized this SWCD's concerns for impacts on the recharge zones of springs known to be important alternate water supplies of Conservation Reserve Enhancement Program areas (Section 4.3.1.5, page 4-38). However, this statement of concern will not by itself provide protection or mitigation from the anticipated environmental impacts. We reiterate, below, our concerns about disturbances by this project in the recharge zone of our water supply springs, which have been shown to be quite sensitive to ground disturbances.

DEIS table 4.3.1-2 identifies no private water supply springs within 150 feet of the proposed project in NY State. Our experience has shown that the 150-foot study limit used by the applicant will prove to be an inadequate zone of assumed environmental impact in our area due to the proposed scale of disturbance. The actual discharge point of springs, especially, and some bedrock wells is often hundreds of feet, both laterally and vertically, from the primary recharge zones, which are the thinly mantled glacial till soils over fractured bedrock in the uplands where much of this linear project would occur.

LA10-28

Besides private water supply springs, Constitution's proposed route crosses through recharge zones for alternate water supply springs that support two CREP areas in the Town of Franklin. (CREP areas require alternate water supplies to keep pastured livestock out of surface waters.) The impacts of disturbing this type of groundwater supply could render the affected CREP areas unsustainable unless new water sources were developed. The lack of available electric utility lines in back pastures often makes it unreasonable to install wells, which makes springs all the more valuable as a water resource.

LA10-27

The SWCD's support for the NYSDAM's plans adopted by Constitution is noted. See the response to comment LA10-3.

LA10-28

The commentor's statements are noted. As discussed in section 4.3.2.1 of the EIS, Constitution would avoid or further minimize impacts on wells or springs by using construction techniques described in its site-specific ECPs, such as using temporary and permanent trench plugs and interceptor dikes. After installation of the pipeline, Constitution would restore the ground surface as closely as practicable to original contours and revegetate any exposed soils to ensure restoration of pre-construction overland flow and recharge patterns. Seeps and springs within 150 feet of the proposed work areas would be assessed by groundwater experts, if requested by landowners, and impact avoidance measures would be developed as applicable. We conclude that adherence to Constitution's proposed best management practices would adequately protect the recharge zones, including zones for springs over 150 feet from the construction work area. In the event that construction of the pipeline temporarily impacted private or public well or spring quality or yield, Constitution would provide alternative water sources or other compensation to the owner. If the project caused permanent impacts on a well or spring as a result of construction, then Constitution would repair or replace the water source or provide an alternative source of potable water.

See the responses comments SA4-1 through SA4-4 and section 3.4.1.2 of the EIS regarding updated information for alternative M.

The commentor's request to require additional mitigation for potential impacts on water supply springs if necessary is noted and the commentor may request ongoing direct coordination with the Applicants, which is encouraged by the FERC.



**LOCAL AGENCIES**

**LA10 – Delaware County Board of Supervisors (cont'd)**

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM

LA10-28  
cont'd

If alternate route M, segment 5 is constructed as depicted in Figure 3.4.1-2, it appears this route may impact CREP areas in the Town of Davenport. The small scale and lack of detail available on this map makes it difficult to determine if an indirect effect such as described in a), above, could also affect alternate water supply springs in these CREP areas.

Due to these concerns about indirect impacts to alternative water supply springs that support CREP areas, this District wishes to reserve the right to require special mitigation when and if such resources are compromised.

# LOCAL AGENCIES

## LA10 – Delaware County Board of Supervisors (cont'd)

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM

COMMITTEE APPROVAL
BY: Thomas Hynes
DATE: 3/21/14
BY PHONE:
BY PERSON: ✓
PREFILED: ✓
NOT PREFILED:

### RESOLUTION NO. 69

LA10-28  
cont'd

#### TITLE:

**Delaware County Board of Supervisors Comments of the Draft Environmental Impact Statement for Constitution Pipeline and Wright Interconnect Projects – FERC EIS 0249D**  
**Docket Nos.: CP13-499-000; CP13-502-000; PF12-9-000**  
**Planning Department**

**WHEREAS:** The staff of the Federal Energy Regulatory Commission (FERC) has prepared a draft environmental impact statement (EIS) for the Constitution Pipeline Project and Wright Interconnect Project (projects), proposed by Constitution Pipeline Company, LLC (Constitution) and Iroquois Gas Transmission System, L.P. (Iroquois), respectively, in the above-referenced dockets; and

**WHEREAS:** Constitution and Iroquois request authorization to construct and operate certain interstate natural gas pipeline facilities in Pennsylvania and New York to deliver up to 650,000 dekatherms per day1 (Dth/d) of natural gas supply to markets in New York and New England; and

**WHEREAS:** The draft EIS assesses the potential environmental effects of the construction and operation of the projects in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the projects would have some adverse environmental impacts; however, these impacts would be reduced to less than significant levels with the implementation of Constitution's and Iroquois' proposed mitigation and the additional measures recommended by staff in the draft EIS; and

**WHEREAS:** The U.S. Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers (COE), the Federal Highway Administration (FHWA), and the New York State Department of Agriculture and Markets (NYSDAM) participated as cooperating agencies in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis; and

**WHEREAS:** The COE would adopt the final EIS if, after an independent review of the document, it concludes that its comments and suggestions have been satisfied; and

**WHEREAS:** The draft EIS addresses the potential environmental effects of the construction and operation of the following project facilities in Susquehanna County, Pennsylvania and Broome, Chenango, Otsego, Delaware, and Schoharie Counties, New York:

S-178

LOCAL AGENCIES

LA10 – Delaware County Board of Supervisors (cont'd)

20140408-5037 FERC PDF (Unofficial) 4/7/2014 5:57:21 PM

LA10-28  
cont'd

- 124.4 miles of new 30-inch-diameter natural gas pipeline and appurtenant facilities that include two new meter stations, two pipe interconnections, eleven mainline valves and one pig launcher and receiver;
- Expansion of the existing Wright Compressor Station with the addition of 22,000 horsepower of incremental compression and other miscellaneous Modifications; and
- Modification and upgrade of the existing delivery meter to the Tennessee Gas Pipeline or possible construction of a new delivery meter.

**WHEREAS:** The Delaware County Core Group members: Cornell Cooperative Extension, Soil and Water Conservation District, Department of Public Works, Economic Development, Emergency Services, Watershed Affairs and Planning Department reviewed the draft EIS to determine if the Constitution's and Iroquois' proposed mitigation and the additional measures recommended by staff in the draft EIS are adequate to address the potential adverse impacts identified in the EIS; and

**WHEREAS:** The Delaware County Core Group members have prepared comments to be submitted to the Commission on behalf of the Delaware County Board of Supervisors; and

**NOW, THEREFORE, BE IT RESOLVED:** that the Delaware County Board of Supervisors submit these comments to the Federal Energy Regulatory Commission for the Constitution Pipeline Project and Wright Interconnect Project Docket Nos.: CP13-499-000; CP13-502-000; PF12-9-000.

# LOCAL AGENCIES

## LA11 – Town of Meredith

20140408-5047 FERC PDF (Unofficial) 4/8/2014 9:09:39 AM

Kimberly D. Bose, Secretary  
The FERC  
888 First Street NE, Room 1A  
Washington DC 20426

US Army Corps of Engineers  
New York District, CENAN-OP-R  
Upstate Regulatory Field Office  
1 Buffington Str., Bldg. 10, 3rd Fl.  
Watervliet, NY 12189-4000

April 7, 2014

Docket Nos. CP13-499 and CP13-502, NAN-2012-00449-UBR - Proposed Constitution Pipeline

This comment has  
been submitted  
twice by the same  
agency (4-8-14 and  
4-14-14)

### TOWN OF MEREDITH PLANNING BOARD - RESOLUTION #2014-1

#### RESOLUTION OPPOSING PERMITTING OF THE PROPOSED CONSTITUTION PIPELINE

- LA11-1 NAME OF PROJECT: Constitution Pipeline
- DATE OF ACTION: April 7, 2014
- The Town of Meredith Planning Board, Delaware County, NY, adopted following resolution:
- WHEREAS, the Town of Meredith has a Comprehensive Plan committed to preserving the Town's historic, agricultural and rural character; and
- WHEREAS, the Town is home to residents who value the Town's pastoral beauty, clean water and wildlife habitat; and
- WHEREAS, in December 2013, the Town of Meredith has passed a Local Law #2013-1, Prohibition of Heavy Industrial Uses ; and
- WHEREAS, the Constitution Pipeline Company, LLC proposes a high-pressure interstate gas pipeline that will run parallel to and on the edge of the Town of Meredith; and
- WHEREAS, the Town of Meredith Planning Board is aware that this pipeline is an "open access" pipeline, as required by Federal Law; and
- WHEREAS, Constitution Pipeline Company submitted additional information to FERC *after* release of the DEIS to the public, which has not been included in said DEIS; and
- LA11-2 WHEREAS, the DEIS states that the project will have no significant adverse environmental impacts but does not require sufficient documentation of mitigation measures to justify this conclusion; and
- LA11-3 WHEREAS construction of this pipeline will result in increased costs for the Town for road maintenance, and devaluation of properties located near the pipeline;
- LA11-4 WHEREAS, gas traveling through the Constitution pipeline could be exported creating potential for quickly rising prices in response to global demands negating any benefit to domestic and local consumers and

Resolution #2014-1 - Page 1 of 3

LA11-1 See the response to comment LA1-2. See the response to comment SA2-1 regarding the proposed communication towers. See the response to comment SA2-4 regarding gas service to local areas.

LA11-2 See the response to comment FA1-1.

LA11-3 See the response to comment LA1-1.

LA11-4 See the response to comment LA5-10 regarding local delivery of natural gas and comment LA7-5 regarding export of natural gas. See the response to comment FA8-3 regarding eminent domain.

LOCAL AGENCIES

LA11 – Town of Meredith (cont’d)

181-S

20140408-5047 FERC PDF (Unofficial) 4/8/2014 9:09:39 AM

This comment has been submitted twice by the same agency

LA11-4  
cont'd

LA11-5

LA11-6

providing no justification for the exercise of eminent domain; and

WHEREAS, The DEIS does not adequately address the feasibility of locating the pipeline along the I-88 corridor.

THEREFORE BE IT RESOLVED, that the DEIS is incomplete and fails to address the concerns of the Town of Meredith Planning Board and should be revised with additional time for public comment.

WHEREUPON, the resolution #2014-1 was put to a vote and following results were recorded:

Susan Dapkins:

Christine Alexander:

Alan Davino:

Donald Statham:

James Tucker:

William Turick:

Chris Van Maaren:

AYE

AYE

AYE

ABSENT

AYE

AYE

AYE

Date: April 7, 2014

Resolution #2014-1 - Page 2 of 3

LA11-5

See the response to comments FA4-16 and SA4 regarding alternative M.

LA11-6

The commentor’s statements regarding the draft EIS are noted. See the responses to comment FA1-1 regarding EIS adequacy and the request to extend the draft EIS comment period.

Local Agency Comments

LOCAL AGENCIES

LA11 – Town of Meredith (cont’d)

S-182

20140408-5047 FERC PDF (Unofficial) 4/8/2014 9:09:39 AM

This comment has been submitted twice by the same agency

STATE OF NEW YORK }  
COUNTY OF DELAWARE }  
TOWN OF MEREDITH }

LA11-6  
cont'd

RESOLUTION # 2014-1

I have compared the preceding copy with the original Resolution on file in this office adopted by the Town of Meredith Planning Board at a meeting held April 7, 2014 and I DO HEREBY CERTIFY the same to be a correct transcript there from and of the whole of the original. I further certify the vote thereon was as follows:

MEMBERS	VOTE
Susan Dapkins:	AYE
Christine Alexander:	AYE
Alan Davino:	AYE
Donald Statham:	ABSENT
James Tucker:	AYE
William Turick:	AYE
Chris Van Maaren:	AYE

Witness my hand and the seal of the Town of Meredith, April 7, 2014

Resolution Certified and Filed:

April 7, 2014

Michèle Lechanteur, Clerk  
Town of Meredith Planning Board

Resolution #2014-1 - Page 3 of 3

**NATIVE AMERICAN TRIBES**

**NAT1 – Seneca Nation of Indians**

20140228-5108 FERC PDF (Unofficial) 2/28/2014 11:10:42 AM	
NAT1-1	Seneca Nation of Indians Historic preservation Office defers to the Mohawk and New York Oneidas on this project.

NAT1-1

The commentor’s statement regarding deferral of comments to the Mohawk and New York Oneida Tribes for the projects is noted.

# NATIVE AMERICAN TRIBES

NAT2 – Stockbridge-Munsee Tribal Historic Preservation Office

20140321-0010 FERC PDF (Unofficial) 03/21/2014

CPB-499

## Stockbridge-Munsee Tribal Historic Preservation Office

Sherry White - Tribal Historic Preservation Officer

W13447 Camp 14 Road

P.O. Box 70

Bowler, WI 54416

ORIGINAL

NAT2-1

Date 3/13/2014  
 Project Number OEP/DG2E/GAS 4 Constitution Pipeline Project  
 TCNS Number \_\_\_\_\_  
 Company Name FERC & Constitution Pipeline LLC

We have received your letter for the above listed project. Before we can process the request we need more information. The additional items needed are checked below.

### Additional Information Required:

- ☐ Site visit by Tribal Historic Preservation Officer
- ☒ Archeological survey (Phase 2)
- ☐ Colored maps
- ☐ Pictures of the site
- ☐ Any reports the State Historic Preservation Office may have
- ☐ Review fee of \$300.00 must be included with letter
- ☐ Has site been previously disturbed, please explain what the use was and when it was disturbed

### After reviewing your letter:

- ☐ We are in the process of gathering more information on this site and will respond to your project request once all information has been gathered.
- ☐ This project has the potential to affect a Mohican cultural site, please contact us
- ☐ This project is not within Mohican area of interest
- ☐ This project is within Mohican territory, but we are not aware of any cultural site within the project area.

Additional comments: Please send Phase II cultural resource report when completed so we can fully comment on our interests in Delaware / Schuylkill County.  
Thank you!

Should this project inadvertently uncover a Native American site, we require you to halt all construction and notify the Stockbridge-Munsee Tribe immediately.

Please do not resubmit projects for changes that are not ground disturbance

B. Hanley for Sherry White  
 Sherry White, Tribal Historic Preservation Officer

(715) 793-3970

Email: sherry.white@munsee-nsi.gov

FILED  
 SECRETARY OF THE  
 COMMISSION  
 2014 MAR 21 A 9 09  
 FEDERAL ENERGY  
 REGULATORY COMMISSION

NAT2-1

The commentor's request for Phase II cultural resource reports is noted. We will ensure that Constitution provides the requested reports. As stated in section 4.10.1.4 of the draft EIS, Constitution has not filed any documentation indicating that it has provided copies of the cultural resources reports to the federally recognized tribes that requested them. We will defer making any determinations of eligibility and effect for any archaeological sites until we have written confirmation that these tribes have had an opportunity to review and comment on the reports. Further, we included a recommendation in section 4.10.4 of the EIS that several conditions be met that would allow the FERC to complete its responsibilities under section 106 of the NHPA, including the distribution of reports to the tribes mentioned above. The FERC staff will continue consultation with the Stockbridge-Munsee Tribe and the other tribes as the projects continue.

S-184



# NATIVE AMERICAN TRIBES

## NAT3 – Mashantucket Pequot Tribal Nation

20140326-4004 FERC PDF {Unofficial} 03/26/2014

**From:** Knowles, Kathleen [mailto:[kknowles@mptrn-nsn.gov](mailto:kknowles@mptrn-nsn.gov)]  
**Sent:** Thursday, March 13, 2014 12:01 PM  
**To:** [eric.howard@ferc.gov](mailto:eric.howard@ferc.gov)  
**Cc:** Stevens, Sue  
**Subject:** (CP13-499-000 AND CP13-502-000) - DRAFT ENVIRONMENTAL IMPACT STATEMENT - CONSTITUTION PIPELINE & WRIGHT INTERCONNECT PROJECTS - REQUEST FOR AUTHORIZATION TO CONSTRUCT & OPERATE CERTAIN INTERSTATE NATURAL GAS PIPELINE FACILITIES - IN NY & NEW ENGLAND

Ms Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St., NE Room 1A  
Washington, DC 20426

Re: (CP13-499-000 AND CP13-502-000)  
**DRAFT ENVIRONMENTAL IMPACT STATEMENT**  
CONSTITUTION PIPELINE & WRIGHT INTERCONNECT PROJECTS  
REQUEST FOR AUTHORIZATION TO CONSTRUCT & OPERATE CERTAIN INTERSTATE NATURAL GAS PIPELINE FACILITIES  
IN PENNSYLVANIA & NEW YORK TO DELIVER UP TO 650,000 DEKATHERMS PER DAY OF NATURAL GAS TO  
MARKETS IN NEW YORK & NEW ENGLAND

NAT3-1 After reviewing the information provided, we have no knowledge of properties of religious and cultural importance to the Mashantucket Pequot Tribe. However, we recommend professional Archaeological Reconnaissance Survey(s) be conducted to identify previously unknown properties of cultural & religious importance -  
have I understood correctly that Constitution Pipeline performed the Archaeology Surveys?  
We would appreciate a copy of any work performed on this project.  
The Mashantucket (Western) Pequot Tribe appreciates the opportunity to review and comment on this proposed project.



Kathleen Knowles  
Tribal Historic Preservation Officer  
Natural Resources Protection & Regulatory Affairs

**Mashantucket Pequot Tribal Nation**  
[550 Trolley Line Blvd., P.O. Box 3202, Mashantucket, CT 06338-3202](mailto:kknowles@mptrn-nsn.gov)  
TEL: 860-396-6887 FAX: 860-396-6914  
[kknowles@mptrn-nsn.gov](mailto:kknowles@mptrn-nsn.gov)

NAT3-1 The commentor's request for cultural resource reports is noted.  
We will ensure that Constitution provides the requested reports.  
See the response to comment NAT2-1.

**NAT4 – Oneida Indian Nation**

DIRECT DIAL: (315) 829-8463  
FACSIMILE: (315) 829-8473  
E-MAIL: [iberkevin@oncide-nation.org](mailto:iberkevin@oncide-nation.org)

FILED  
SECRETARY OF THE  
COMMISSION  
2014 JUN 16 A 9:53  
FEDERAL ENERGY  
REGULATORY COMMISSION

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

Dear Ms. Bose,

The Oneida Indian Nation (the "Nation") reviewed the Draft Environmental Impact Statement (DEIS) prepared by the Federal Energy Regulatory Commission (FERC) regarding the Constitution Pipeline (CP13-499-000) and Wright Interconnect (CP13-502-000) Projects (the "Project"). As stated in the Executive Summary, "The FERC is the federal agency responsible for authorizing interstate natural gas transmission facilities under the NGA [National Gas Act], and is the lead federal agency for the preparation of this EIS in compliance with the requirements of NEPA [National Environmental Policy Act of 1969]".

The Project is located within the Nation's aboriginal territory and crosses many areas that the Nation identifies as sensitive for significant cultural and historic resources. As described in the DEIS, many cultural resources were identified within the area of potential effect (APE) during the archaeological survey for the Project. The DEIS also indicated that the Project will be modified to avoid the resources or provide for suitable mitigation if they cannot. The Nation has worked with the Constitution Pipeline Company, LLC (Constitution), and its consultants to help identify Nation cultural resource concerns within the Project's APE. The Nation requests to continue to work with FERC and Constitution to address the Nation's concerns.

As planning for the project progresses, the Nation requests that FERC consult with the Nation before making any decisions or determinations in the Section 106 process concerning the Project's APE, level of effort to identify historic properties, presence or absence of historic properties, National Register of Historic Places eligibility, findings of no effect or adverse effect and measures to address or resolve adverse effects.

**If you have any questions, please call me at (315) 829-8463.**

2037 Dream Catcher Plaza • Oncida, New York 13421

NAT4-1

The commentor's statements regarding the EIS process, cultural resources, and ongoing coordination with the FERC and Constitution are noted. See the response to comment NAT2-1.

S-186

**NATIVE AMERICAN TRIBES**

**NAT4 – Oneida Indian Nation (cont'd)**

Very truly yours,

ONEIDA INDIAN NATION

  
Jesse J. Bergevin

2037 Dream Catcher Plaza • Oneida, New York 13421